

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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GENERAL ASSEMBLY

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

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.

2016 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	1/8	2/12	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/22	2/26	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

REPRODUCING OFFICIAL DOCUMENTS

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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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In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4624			Professional Employer Organizations	5/10/17	Department of Consumer Affairs
4625			Licensing Standards for Continuing Care Retirement Communities	5/10/17	Department of Consumer Affairs
4649			Securities Division	5/10/17	Secretary of State

2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.php>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4624	Professional Employer Organizations		
4625	Licensing Standards for Continuing Care Retirement Communities		
4649	Securities Division		

Executive Order No. 2016-20

WHEREAS, in 1986, Congress passed and President Reagan signed into law P.L. 99-457, which established an early intervention program to provide services to infants and toddlers with disabilities in order to enhance their development, reduce the need for special education in later years, minimize the likelihood of institutionalization, promote independent living, and enhance the capacity of families to meet their children's needs; and

WHEREAS, subsequent amendments to federal law folded these programs into Part C of the Individuals with Disabilities Education Act ("IDEA Part C"); and

WHEREAS, each state that participates in the IDEA Part C program must establish a State Interagency Coordinating Council ("Council") to advise and assist the lead agency in identifying sources of support for early intervention services, promoting interagency agreements, and in collaboration with the Department of Education, transitioning toddlers with disabilities to preschool and other appropriate services; and

WHEREAS, for fifteen years, the U.S. Department of Education's annual assessment has continuously found that South Carolina's IDEA Part C program "Needs Assistance", "Needs Intervention", or "Needs Substantial Intervention"; and

WHEREAS, each governor is responsible pursuant to 20 U.S.C. § 1400 et seq. for designating a responsible lead agency through which the IDEA Part C program will be administered; and

WHEREAS, Executive Order 2009-12 transferred the IDEA Part C program from the Department of Health and Environmental Control to First Steps for School Readiness; and

WHEREAS, the Department of Health and Human Services is responsible for administering the Medicaid and Children's Health Insurance Programs that already serve a majority of recipients of IDEA Part C services, often beginning with prenatal care; and

WHEREAS, as a major healthcare policy and financing agency, the Department of Health and Human Services is uniquely positioned to bring Medicaid managed care organizations and IDEA Part C care coordinators and providers together to align beneficiaries' Medicaid care plans with their Individualized Family Support Plans under IDEA Part C, while ensuring that private coverage funds appropriate services before public sources are used, as federally required; and

WHEREAS, the Department of Health and Human Services, through its existing infrastructure and relationships with other agencies, is well positioned to implement many of the remaining recommendations of various audits and reports, such as the Legislative Audit Council's finding that, "The General Assembly should appropriate all BabyNet funding directly to [the lead agency] to increase accountability for the lead agency with regard to partner agencies and providers."

NOW, THEREFORE, pursuant to the authority vested in me by the laws and Constitution of the State of South Carolina, I designate the Department of Health and Human Services as the lead agency for South Carolina's IDEA Part C Program, known locally as "BabyNet".

FURTHER, in order to effectuate the transition, the Department of Health and Human Services ("Department") shall:

1. Take all necessary and appropriate steps to assume responsibility for BabyNet effective July 1, 2017, and make any necessary filings with the U.S. Department of Education;
2. Determine the most effective means of administering the BabyNet program and establish partnerships with the appropriate state agencies in order to fulfill this mission; and

4 EXECUTIVE ORDERS

3. Engage with independent auditors and/or consultants at its discretion in order to:

- a. Ensure that BabyNet funds have been and are now appropriately accounted, including the proper segregation of these funds from other resources; and
- b. Support the development of a plan to separate BabyNet staff, equipment, funding, and other resources from those remaining with First Steps to School Readiness.

FURTHER, to support the State Interagency Coordinating Council (“Council”), the Department shall:

1. Coordinate with the Governor’s Office to ensure that the Council is fully constituted;
2. Make the Department’s facilities available for the quarterly meetings of the Council.

FURTHER, First Steps to School Readiness (“First Steps”) shall:

1. Maintain and fulfill all existing responsibilities as the BabyNet lead agency until July 1, 2017;
2. Cooperate fully in the Department’s transition efforts, which the Department may begin to implement prior to July 1, 2017, and provide accurate, complete, and timely information and other assistance upon the Department’s request to ensure continuity of care for the program’s beneficiaries; and
3. Refrain from entering into or extending for more than one year contracts relating to BabyNet without the Department’s prior consent.

FURTHER, in recognition of the BabyNet program’s complex structure and its connection to various other state and federal programs:

1. Additional state agencies including but not limited to the Department of Disabilities and Special Needs, Department of Social Services, and the School for the Deaf and Blind shall cooperate fully and participate actively in the Department’s planning efforts; and
2. The Department shall coordinate with the Department of Education on matters affecting the various programs established under IDEA.

FURTHER, the Executive Budget Office shall confer with both First Steps and the Department during the preparation of the Executive Budget for Fiscal Year 2017-18 to ensure that anticipated expenditures associated with the BabyNet program are appropriately presented.

This Order shall take effect immediately with the Department’s formal assumption of IDEA Part C lead agency responsibilities to begin July 1, 2017, upon which date Executive Order 2009-12 shall be rescinded.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 14th DAY
OF SEPTEMBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-21

WHEREAS, a declaration of emergency exists in the State of Georgia due to the temporary shutdown of a primary fuel pipeline, threatening the public welfare and causing a need for the uninterrupted supply of gasoline throughout the State of Georgia; and

WHEREAS, the Governor of the State of Georgia has suspended federal regulations limiting the hours operators of commercial motor vehicles may drive pursuant to the Federal Motor Carrier Safety regulations, 49 CFR § 390, et seq.; and

WHEREAS, whenever a declaration of emergency is declared in Georgia that triggers relief under 49 CFR § 390.23, an emergency must be declared in this State pursuant to Section 56-5-70(B) of the South Carolina Code of Laws.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and of the United States of America, I hereby determine that an emergency exists in the State South Carolina for the limited purpose of complying with the declaration of emergency in the State of Georgia and accordingly direct the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to suspend the federal rules and regulations that limit the hours operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of gasoline and other fuels needing to be moved on the highways of Georgia.

This emergency justifies a suspension of Part 395 (drivers' hours of service) of Title 49 of the Code of Federal Regulations. The suspension shall remain in effect for 7 days or until the emergency condition ceases to exist, whichever is less.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 CFR § 383, the financial requirements in 49 CFR § 387, or applicable federal size and weight limitations.

This order takes effect immediately.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 14th DAY
OF SEPTEMBER, 2016.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2016-22

WHEREAS, in recent years South Carolina's Other Funds revenue has substantially increased, representing the largest fund source in the Fiscal Year (FY) 2016-17 Appropriations Act at over \$10.39 billion, compared to \$7.57 billion and \$8.35 billion for General Funds and Federal Funds respectively; and

WHEREAS, Other Funds span many agencies and encompass various fines and fees, including college tuition, filing fees, laboratory test fees, environmental fees, archival research fees, business and facility licensing fees, and driver reinstatement fees; and

WHEREAS, recognizing the need for accountability and transparency in the collection of Other Funds by state agencies, the General Assembly, most recently via Proviso 117.74 of the FY 2016-17 Appropriations Act, requires each state agency to provide a public report of all aggregated amounts of fines and fees that were charged, collected, and expended by that agency but does not require the agencies to identify the cash balance at the end of the fiscal year or an explanation of the need to carry a cash balance in excess of actual expenditures; and

WHEREAS, at the close of the past four fiscal years, state agencies have had end of year Other Funds balances of roughly \$2.1 billion, \$2.3 billion, \$2.6 billion, and \$3.2 billion, respectively; and

6 EXECUTIVE ORDERS

WHEREAS, fines, fees, and user charges is often another form of taxation that increases the cost and complexity of living and doing business in South Carolina; and

WHEREAS, Other Funds data is an essential component in the budget development process.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby direct all state agencies to prepare an Other Funds report containing the following:

1. For each Other Fund revenue source, the enabling statute or proviso that authorizes its collection.
2. The agency program or activity that is supported by funds generated from the revenue source.
3. The statute or proviso that grants carry forward authority for funds generated from the revenue source.
4. An explanation of how the revenue source is generated to include the entity or person(s) assessed the fee, fine, or charge.
5. The actual amount collected in the previous fiscal year, the amount estimated to be collected in the current fiscal year, and the amount estimated to be collected in the upcoming fiscal year.
6. The actual expenditures paid from funds generated by the revenue source for the previous fiscal year.
7. The revenue source's cash balance at the end of the previous fiscal year.
8. An explanation of the need to carry a cash balance in excess of the actual expenditures for the previous fiscal year.

BE IT FURTHER ORDERED, the Executive Budget Office shall develop a format and process for collecting the Other Funds reports from all state agencies. All state agencies must submit by November 1st of each year the Other Funds report to the Executive Budget Office that shall be made public.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 19TH DAY OF SEPTEMBER, 2016.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2016-23

WHEREAS, due to the ongoing, temporary shutdown of a primary fuel pipeline, there still exists an emergent need in South Carolina and neighboring states for the expedited movement and uninterrupted supply of gasoline throughout our state to preserve the health, safety, and welfare of the public; and

WHEREAS, federal law limits the hours operators of commercial motor vehicles may drive vehicles transporting materials as stated above pursuant to 49 C.F.R. Part 395 and establishes certain weight limitations for vehicles on interstate highways pursuant to 23 U.S.C. § 127 in conjunction with S.C. Code § 56-5-4010 et seq., which establishes size, weight, and load requirements for South Carolina highways; and

WHEREAS, the Governor of a State may suspend certain requirements relating to registration, permitting, length, width, weight, load, and time of service for commercial vehicles responding to an emergency if the Governor declares a State of Emergency pursuant to 23 U.S.C. § 127, 49 C.F.R. § 390.23, and S.C. Code § 56-5-70(A).

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby declare that an emergency exists to suspend the federal rules and regulations that restrict certain registration, permitting, length, width, weight, load, and hours of service requirements as set forth below in order to ensure the delivery of gasoline and other fuels as well as the efficient use of gasoline for delivery of any item, further directing the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to comply with this Order.

IT IS FURTHER ORDERED that:

a. Weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed for continuous travel on all non-interstates maximum dimensions of 12' wide, 13'6" high and weights of 90,000 pounds.

b. Posted bridges may not be crossed.

c. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall provide appropriate documentation indicating it is responding to this emergency.

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

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

FURTHER, this emergency justifies an extension of the suspension of 49 C.F.R. Part 395 (drivers' hour of service). Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 C.F.R. § 383 or the financial requirements in 49 C.F.R. § 387.

Provisions of this Order affecting registration, permitting, length, width, weight, and load requirements shall take effect immediately. Provisions of this Order affecting hours of service requirements shall take effect immediately following the expiration of Executive Order 2016-21.

**GIVEN UNDER MY HAND AND THE
GREAT SEAL OF THE STATE OF
SOUTH CAROLINA, THIS 19th DAY
OF SEPTEMBER, 2016.**

**NIKKI R. HALEY
Governor**

8 EXECUTIVE ORDERS

Executive Order No. 2016-24

WHEREAS, the State of South Carolina is proud of its longstanding, rich military history, serving as home to defense installations and more than 31,000 Active Duty soldiers, 18,000 National Guardsmen and Reservists, and 400,000 military veterans who continue to enhance the overall quality of life for our citizens and enrich the fabric of our state socially, economically, and politically; and

WHEREAS, since the beginning of my Administration, South Carolina's National Guardsmen have made more than 9,000 deployments, along with countless others by South Carolinians serving in the United States Armed Forces, to support the defense of our nation and the security of our people; and

WHEREAS, following active service, mobilization, or retirement, the transition from military to civilian life oftentimes imposes unique challenges for veterans, their families, and their communities, creating an opportunity for our state to improve policies that better serve those who have served us; and

WHEREAS, pursuant to Act 342 of 2010 and reauthorizing Acts 101 of 2011, 320 of 2012, and 127 of 2015, the Committee to Study Certain Issues Affecting Veterans has issued its report and was sunset on February 1, 2016; and

WHEREAS, it is my belief that the State should continue to study certain issues affecting veterans to augment the ongoing efforts of the South Carolina Military Base Task Force, which works to enhance the value of military installations and facilities and the quality of life for military personnel in South Carolina.

NOW, THEREFORE, pursuant to the power conferred upon me by the Constitution and Statutes of the State of South Carolina, I hereby establish the South Carolina Veterans Policy Advisory Committee, which shall act as an advisory committee to the South Carolina Military Base Task Force for the purpose of analyzing the contributions and needs of veterans in the State of South Carolina. In conducting its work, the Veterans Policy Advisory Committee shall solicit testimony from veterans in making policy recommendations and shall report its recommendations to the Governor and the South Carolina Military Base Task Force not less than annually.

FURTHER, the Veterans Policy Advisory Committee shall be composed of the following fifteen members with staff support provided by the Military Base Task Force and the Department of Commerce, accordingly:

1. Chairman of the South Carolina Military Base Task Force, who shall either serve as or designate the Chair;
2. Member of the South Carolina Military Base Task Force;
3. Member of the South Carolina Military Base Task Force;
4. Military Veteran appointed by the Governor;
5. Military Veteran appointed by the Governor;
6. Senator representing a military community appointed by the Governor;
7. Senator representing a military community appointed by the Governor;
8. Member of the House of Representatives representing a military community appointed by the Governor;
9. Member of the House of Representatives representing a military community appointed by the Governor;
10. Adjutant General or his designee;
11. Director of the Department of Administration Office of Veterans' Affairs or his designee;
12. Director the Department of Employment and Workforce or his designee;
13. Director of the Department of Drug, Alcohol and Other Drug Abuse Services or his designee;
14. Director of the Department of Mental Health or his designee; and
15. Director of the Department of Disabilities and Special Needs or his designee.

This Order shall take effect immediately and shall be rescinded upon the rescission of Executive Order 2013-04.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 26TH DAY OF SEPTEMBER, 2016.

NIKKI R. HALEY
Governor

Executive Order No. 2016-25

WHEREAS, due to the temporary shutdown of a primary fuel pipeline from September 9 to 21, 2016, there still exists an emergent need in South Carolina and neighboring states for the expedited movement and uninterrupted supply of gasoline and other fuels throughout our state in order to ensure the health, safety, and welfare of the public; and

WHEREAS, it has been presented to me that commercial drivers transporting gasoline and other fuels are running several days behind schedule and are not estimated to return to normal operations until mid-October; and

WHEREAS, federal law limits the hours operators of commercial motor vehicles may drive vehicles transporting materials as stated above pursuant to 49 C.F.R. Part 395 and establishes certain weight limitations for vehicles on interstate highways pursuant to 23 U.S.C. § 127 in conjunction with S.C. Code § 56-5-4010 et seq., which establishes size, weight, and load requirements for South Carolina highways; and

WHEREAS, the Governor of a State may suspend certain requirements relating to registration, permitting, length, width, weight, load, and time of service for commercial vehicles responding to an emergency if the Governor declares a State of Emergency pursuant to 23 U.S.C. § 127, 49 C.F.R. § 390.23, and S.C. Code § 56-5-70(A).

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby declare that a continued emergency exists to suspend the federal rules and regulations that restrict certain registration, permitting, length, width, weight, load, and hours of service requirements as set forth below in order to ensure the delivery of gasoline and other fuels as well as the efficient use of gasoline for delivery of any item, further directing the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to comply with this Order.

IT IS FURTHER ORDERED that:

a. Weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed for continuous travel on all non-interstates maximum dimensions of 12' wide, 13'6" high and weights of 90,000 pounds.

b. Posted bridges may not be crossed.

c. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall provide appropriate documentation indicating it is responding to this emergency.

10 EXECUTIVE ORDERS

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

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

FURTHER, this emergency justifies an extension of the suspension of 49 C.F.R. Part 395 (drivers' hour of service). Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 C.F.R. § 383 or the financial requirements in 49 C.F.R. § 387.

Provisions of this Order affecting hours of service requirements shall take effect immediately upon the expiration of Executive Order 2016-23 and shall be reauthorized on October 5, 2016, at 11:59 p.m., and again on October 12, 2016, at 11:59 p.m., to ultimately expire at midnight on Saturday, October, 15, 2016.

Provisions of this Order affecting registration, permitting, length, width, weight, and load requirements shall continue as previously authorized under Executive Order 2016-23 and shall expire at midnight on Saturday, October 15, 2016.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 28th DAY OF SEPTEMBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-26

WHEREAS, the National Hurricane Center has determined that the State of South Carolina may be vulnerable to the effects of Hurricane Matthew, currently a category 4 moving northwest towards South Carolina; and

WHEREAS, I have been advised that Hurricane Matthew, the heavy rain, and flash flooding may represent a threat to the safety, security, welfare and property of citizens and transients living in South Carolina, the preparation and response for which require assistance and support from the State.

NOW THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, effective at 7:30 AM, October 4, 2016, I hereby declare that a State of Emergency exists in South Carolina. I direct that the South Carolina Emergency Operations Plan be placed into effect. I direct that all prudent preparations be taken at the individual, local, and state levels to protect against the possible effects of Hurricane Matthew.

FURTHER, I hereby place specified units and/or personnel of the South Carolina National Guard on State Active Duty pursuant to my authority under Section 25-1-1840 of the South Carolina Code of Laws, and I will do so by directing the Adjutant General to issue supplemental orders. I further order the activation of the South Carolina National Guard personnel and utilization of appropriate equipment at the discretion of the Adjutant General and in coordination with the Director of the South Carolina Emergency Management Division, to take necessary and prudent actions to assist the citizens of this state.

I also order Dual Status Command to allow the Adjutant General or his designee to serve as commander over both federal (Title 10) and state forces (National Guard in Title 32 and/or State Active Duty status) as necessary.

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

I also note that the prohibitions against price gouging stated in Section 39-5-145 of the South Carolina Code of Laws are in effect due to the State of Emergency.

Further proclamations and regulations deemed necessary to insure the fullest protection of life and property during this state of emergency shall be issued orally by me and thereafter reduced to writing within the succeeding 24-hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 4th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-27

WHEREAS, the National Hurricane Center has determined the State of South Carolina may be vulnerable to the effects of Hurricane Matthew, currently a category 4 moving northwest towards the coast of South Carolina; and

WHEREAS, the force of Hurricane Matthew represents an imminent threat to the safety, security, and welfare of the residents and patients of coastal healthcare facilities; and

WHEREAS, I am authorized pursuant to Section 25-1-440 of the South Carolina Code of Laws, Revised 2007, as amended, as the elected Chief Executive of the State to “direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is considered necessary for the preservation of life or other emergency mitigation, response, or recovery;” and

WHEREAS, I have declared a State of Emergency in South Carolina pursuant to Executive Order 2016-26; and

WHEREAS, I have determined that evacuation of healthcare facilities is necessary for the preservation of life in and surrounding the threatened area.

NOW THEREFORE, by virtue of the power and authority vested in me as the Governor pursuant to the Constitution and Laws of South Carolina, effective at 3:00 P.M, October 4, 2016, I do hereby order a mandatory evacuation of all healthcare facilities, licensed by the Department of Health and Environmental Control (“Department”) and located in the designated evacuation zones in the following counties:

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County	Evacuation Zone
Beaufort	Zone A,B,C
Charleston	Zone A,B,C
Dorchester	Zone A,B,C
Berkeley	Zone A,B,C
Colleton	Zone A,B,C
Georgetown	Zone A
Hampton	Zone A,B,C
Horry	Zone A
Jasper	Zone A,B,C

For purposes of this Order, healthcare facilities include acute care hospitals, psychiatric hospitals, alcohol and substance abuse hospitals, rehabilitation hospitals, nursing homes, community residential care facilities (also called assisted living facilities), ambulatory surgical facilities, hospice facilities, radiation therapy facilities, abortion facilities, day care facilities for adults, residential treatment facilities for children and adolescents, intermediate care facilities for persons with intellectual disability, narcotic treatment programs, inpatient facilities that treat individuals for psychoactive substance abuse or dependence, and birthing centers.

Effective upon execution of this Order, all healthcare facilities in the evacuation zones are hereby ordered to immediately stop admission of any non-emergent patients, stop scheduling any patients for elective procedures, and cancel any elective procedures which have been previously scheduled.

Effective upon execution of this Order, all hospitals in the evacuation zones are hereby ordered to reduce their census of patients immediately.

In accordance with South Carolina Regulations 61-16, Section 901, hospitals which want to seek exemptions to shelter in place must request an exemption from the Department pursuant to the Department's Critical Data Sheet (CDS) Information system. Hospital data provided to the CDS system assists the Department, during times of disaster and emergencies, to determine the appropriateness of evacuation or shelter-in-place, disaster preparedness standards and to grant exemptions from a full mandatory evacuation to those hospitals which qualify to shelter-in-place. The following hospitals have requested and been granted exemptions to shelter-in-place, in accordance with this Order:

East Cooper Medical Center (HTL-0447)
Grand Strand Medical Center (HTL-0770)
Coastal Carolina Hospital (HTL-0902)
Beaufort Memorial Hospital (HTL-0026)
Roper Hospital (HTL-0063)
Bon Secours-St. Francis Xavier Hospital (HTL-0750)
Roper Mount Pleasant (HTL-0909)
Colleton Medical Center (HTL-0405)
HealthSouth Rehabilitation Hospital of Charleston (HTL-0648)

DHEC is authorized to grant additional exemptions to hospitals that are appropriate to shelter-in-place.

Patients may be allowed to remain in the hospital and shelter-in-place if:

1. A physician has reviewed the status of each patient and discharged all patients who could reasonably be discharged without jeopardizing the patient's safety. This includes consideration of the risk to the patient's health or life by moving him/her versus the risk of the patient's remaining in the hospital during the emergency. The hospital must provide the Department a contact person (name, e-mail, telephone numbers) who will provide confirmation that the hospital is in compliance with all aspects of this order; and
2. The hospital has a plan and ensures there will be sufficient and appropriate staff on duty in the hospital at all times during the sheltering-in-place, and the staff are capable of supporting the patient and his/her parent, guardian, spouse or representative who may stay with the patient; and
3. The hospital has a plan and ensures there is sufficient food, water, medications, equipment and other logistical support internal to the hospital to maintain every person within the hospital for ninety-six (96) hours post impact of the hurricane.

Any persons, non-Emergency Management personnel, medical personnel or administrative personnel who remain in the evacuation zones, and any hospital administrators who allow persons in their charge to remain in the evacuation zones, thereby become responsible for their own safety and well-being and for the safety and well-being of those under their charge. All are charged with the knowledge that should they need the assistance of emergency personnel or services, those personnel or services may not be available or capable of coming to their aid.

Further Proclamations and Orders deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by me, and thereafter published for dissemination within the succeeding twenty-four hour period.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 4th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-28

WHEREAS, by Executive Order Number 2016-26 a State of Emergency has been declared; and

WHEREAS, federal law limits the hours operators of commercial motor vehicles may drive vehicles transporting materials as stated above pursuant to 49 C.F.R. Part 395 and establishes certain weight limitations for vehicles on interstate highways pursuant to 23 U.S.C. § 127 in conjunction with S.C. Code § 56-5-4010 et seq., which establishes size, weight, and load requirements for South Carolina highways; and

WHEREAS, the Governor of a State may suspend certain requirements relating to registration, permitting, length, width, weight, load, and time of service for commercial vehicles responding to an emergency if the Governor declares a State of Emergency pursuant to 23 U.S.C. § 127, 49 C.F.R. § 390.23, and S.C. Code § 56-5-70(A).

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NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, and I am suspending the federal rules and regulations that restrict certain registration, permitting, length, width, weight, load, and hours of service requirements as set forth below, further directing the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to comply with this Order.

IT IS FURTHER ORDERED that:

a. Weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed for continuous travel on all non-interstates maximum dimensions of 12' wide, 13'6" high and weights of 90,000 pounds.

b. Posted bridges may not be crossed.

c. All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall provide appropriate documentation indicating it is responding to this emergency.

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

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

FURTHER, this emergency justifies an extension of the suspension of 49 C.F.R. Part 395 (drivers' hour of service). Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 C.F.R. § 383 or the financial requirements in 49 C.F.R. § 387.

FURTHER, provisions of this Order supersede Executive Order 2016-25 which suspended transportation regulations due to a pipeline incident, and the time shall begin anew. Under S.C. Code § 56-5-70 the following timelines shall apply unless a new Executive Order is issued rescinding the state of emergency and specifically ending these waivers.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 4th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-29

WHEREAS, I have declared a State of Emergency in Executive Order 2016-26 due to Hurricane Matthew; and

WHEREAS, the South Carolina Emergency Operations Plan was placed into effect in order to provide for the health, safety and welfare of residents and visitors located in the threatened areas where the effect of Hurricane Matthew could be experienced;

WHEREAS, I am authorized pursuant to Section 25-1-440 of the Code of Laws of South Carolina, 1976, as amended, as the Elected Chief Executive of the State to direct the closure of schools necessary to support the evacuation and sheltering of the public from those areas threatened by the impacts of Hurricane Matthew; and

WHEREAS, I have determined that schools and buses are required to safeguard the public evacuated from the specified zones in accordance with the forthcoming evacuation order which will be issued for October 5, 2016; and

WHEREAS, I am also authorized pursuant to Section 25-1-440 of the Code of Laws of South Carolina, 1976, as amended, as the Elected Chief Executive of the State to direct the closure of State, County and Municipal government offices to effectuate and support the evacuation of the public from those areas threatened by the impacts of Hurricane Matthew.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, I do hereby order all schools in Beaufort, Jasper, Colleton, Hampton, Allendale, Bamberg, Barnwell, Aiken (Southern Conglomerate); Charleston, Berkeley, Dorchester, Orangeburg, Calhoun, Richland, Lexington (Central Conglomerate), and Horry, Georgetown, Williamsburg, Marion, Florence, Dillon, Clarendon, Sumter, Darlington, Lee, Marlboro (Northern Conglomerate) to close beginning Wednesday, October 5, 2016 in order to support shelter operations and mass transportation of the public with critical transportation needs. The duration of this closure for these Conglomerates is for the duration of shelter operations, which will be open for the period of the evacuation and until conditions allow the public to return, with closure at least through Friday, October 7, 2016.

FURTHER, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, I do hereby order all State, County, and Municipal government offices in Beaufort, Jasper, Colleton, Hampton, Allendale, Bamberg, Barnwell, Aiken (Southern Conglomerate); Charleston, Berkeley, Dorchester, Orangeburg, Calhoun, Richland, Lexington (Central Conglomerate), and Horry, Georgetown, Williamsburg, Marion, Florence, Dillon, Clarendon, Sumter, Darlington, Lee, Marlboro (Northern Conglomerate) to close beginning Wednesday, October 5, 2016 in order to support evacuation operations and mass transportation of the public with critical transportation needs. This Order affects all employees except for those emergency, governmental, or essential personnel whose presence the Director of said State, County or Municipal government office deems necessary. The duration of closure will be for the period of the evacuation through close of business Friday, October 7, 2016.

FURTHER, Proclamations and Orders related to the closure of schools or State, County and Municipal government offices that are deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by me, and thereafter published for dissemination within the succeeding twenty-four hour period.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 4th DAY OF OCTOBER, 2016.

NIKKI R. HALEY
Governor

Executive Order No. 2016-30

WHEREAS, Executive Order 2016-27 ordered a mandatory evacuation of all healthcare facilities, licensed by the Department of Health and Environmental Control (“Department”) and located in designated evacuation zones; and

16 EXECUTIVE ORDERS

WHEREAS, the evacuation zones have been updated;

NOW THEREFORE, by virtue of the power and authority vested in me as the Governor pursuant to the Constitution and Laws of South Carolina, effective as of 3:00 P.M, October 4, 2016, I do hereby order a mandatory evacuation of all healthcare facilities, licensed by the Department of Health and Environmental Control (“Department”) and located in the designated evacuation zones in the following counties:

County	Evacuation Zone
Beaufort	Zone A,B,C
Charleston	Zone A,B,C
Dorchester	Zone B,D,E and F
Berkeley	Zone A,B,C,G and I
Colleton	Zone A,B,C
Georgetown	Zone A
Hampton	Zone A,B,C
Horry	Zone A
Jasper	Zone A,B,C

FURTHER Proclamations and Orders deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by me, and thereafter published for dissemination within the succeeding twenty-four hour period.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 4th DAY OF OCTOBER, 2016.

NIKKI R. HALEY
Governor

Executive Order No. 2016-31

WHEREAS, the National Hurricane Center advises that Hurricane Matthew will strike the coast of South Carolina and I have declared a State of Emergency in Executive Order 2016-26 due to Hurricane Matthew; and

WHEREAS, the South Carolina Emergency Operations Plan was placed into effect in order to provide for the health, safety and welfare of residents and visitors located in the threatened areas where the effect of Hurricane Matthew could be experienced; and

WHEREAS, I am authorized pursuant to Section 25-1-440 of the Code of Laws of South Carolina, 1976, as amended, as the Elected Chief Executive of the State to direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life or other disaster mitigation, response, or recovery; and

WHEREAS, I have determined that evacuation is necessary for the preservation of life in and surrounding the threatened area.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, effective at 3:00 PM, October 05, 2016, I do hereby order an evacuation of all persons located in the specified Evacuation Zones in Jasper (Zone A), Beaufort (Zone A), Colleton (Zone A), Charleston (Zones A,B,C), Dorchester (Zones B,D,E,F), and Berkeley (Zones B,C,F,G,I) counties with the exception of those critical or emergency response personnel, as designated by the appropriate municipal, county or Special Purpose District officials, necessary to provide for essential services during or immediately following the event. All other persons are ordered to evacuate the areas as expeditiously as possible. Specific details of the areas for the evacuation are attached.

Any persons or non-Emergency Management personnel who remain in the evacuation zones, and any medical facilities, nursing home facilities, businesses and/or other organizations who allow persons under their charge to remain in the evacuation zones, thereby become responsible for their own safety and well-being and for the safety and well-being of those under their charge. They are charged with the knowledge that should they need the assistance of emergency personnel or services, those personnel or services may not be available or capable of coming to their aid.

I further direct that specified units of the South Carolina National Guard, at the discretion of the Adjutant General in consultation with the Director of the Emergency Preparedness Division (EMD), may remain on duty to assist civil authorities in these counties, including Emergency Support Functions (ESF) 13 and 16, the South Carolina Department of Public Safety (DPS), and South Carolina Law Enforcement Division (SLED), taking all reasonable precautions as necessary for the preservation of life and property. South Carolina National Guard may supplement units as needed. DPS will remain to assist with all traffic control points as assigned and needed.

Persons in inland counties near the projected path of Hurricane Matthew should take all precautions to ensure their protection from potential high winds and inland flooding.

Further Proclamations and Orders deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by me, and thereafter published for dissemination within the succeeding twenty-four hour period.

Specific details of the areas for the evacuation are attached.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 5th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-32

WHEREAS, the National Hurricane Center advises that Hurricane Matthew will strike the coast of South Carolina and I have declared a State of Emergency in Executive Order 2016-26 due to Hurricane Matthew; and

WHEREAS, the South Carolina Emergency Operations Plan was placed into effect in order to provide for the health, safety and welfare of residents and visitors located in the threatened areas where the effect of Hurricane Matthew could be experienced; and

18 EXECUTIVE ORDERS

WHEREAS, I am authorized pursuant to Section 25-1-440 of the Code of Laws of South Carolina, 1976, as amended, as the Elected Chief Executive of the State to direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life or other disaster mitigation, response, or recovery; and

WHEREAS, I have determined that evacuation is necessary for the preservation of life in and surrounding the threatened area.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, effective at 12:00 PM, October 05, 2016, I do hereby order an evacuation of all persons located in the specified Evacuation Zone A in Georgetown and Horry counties with the exception of those critical or emergency response personnel, as designated by the appropriate municipal, county or Special Purpose District officials, necessary to provide for essential services during or immediately following the event. All other persons are ordered to evacuate the areas as expeditiously as possible. Specific details of the areas for the evacuation are attached.

Any persons or non-Emergency Management personnel who remain in the evacuation zones, and any medical facilities, nursing home facilities, businesses and/or other organizations who allow persons under their charge to remain in the evacuation zones, thereby become responsible for their own safety and well-being and for the safety and well-being of those under their charge. They are charged with the knowledge that should they need the assistance of emergency personnel or services, those personnel or services may not be available or capable of coming to their aid.

I further direct that specified units of the South Carolina National Guard, at the discretion of the Adjutant General in consultation with the Director of the Emergency Preparedness Division (EMD), may remain on duty to assist civil authorities in these counties, including Emergency Support Functions (ESF) 13 and 16, the South Carolina Department of Public Safety (DPS), and South Carolina Law Enforcement Division (SLED), taking all reasonable precautions as necessary for the preservation of life and property. South Carolina National Guard may supplement units as needed. DPS will remain to assist with all traffic control points as assigned and needed.

Persons in inland counties near the projected path of Hurricane Matthew should take all precautions to ensure their protection from potential high winds and inland flooding.

Further Proclamations and Orders deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by me, and thereafter published for dissemination within the succeeding twenty-four hour period.

Specific details of the areas for the evacuation are attached.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 5th DAY OF OCTOBER, 2016.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2016-33

WHEREAS, the National Hurricane Center advises that Hurricane Matthew will strike the coast of South Carolina and I have declared a State of Emergency in Executive Order 2016-26 due to Hurricane Matthew; and

WHEREAS, the South Carolina Emergency Operations Plan was placed into effect in order to provide for the health, safety and welfare of residents and visitors located in the threatened areas where the effect of Hurricane Matthew could be experienced; and

WHEREAS, I am authorized pursuant to Section 25-1-440 of the Code of Laws of South Carolina, 1976, as amended, as the Elected Chief Executive of the State to direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life or other disaster mitigation, response, or recovery; and

WHEREAS, I have determined that evacuation is necessary for the preservation of life in and surrounding the threatened area.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, effective at 4:00 PM, October 6, 2016, I do hereby order an evacuation of all persons located in the specified Evacuation Zone B in Colleton and Jasper counties with the exception of those critical or emergency response personnel, as designated by the appropriate municipal, county or Special Purpose District officials, necessary to provide for essential services during or immediately following the event. All other persons are ordered to evacuate the areas as expeditiously as possible. Specific details of the areas for the evacuation are attached.

Any persons or non-Emergency Management personnel who remain in the evacuation zones, and any medical facilities, nursing home facilities, businesses and/or other organizations who allow persons under their charge to remain in the evacuation zones, thereby become responsible for their own safety and well-being and for the safety and well-being of those under their charge. They are charged with the knowledge that should they need the assistance of emergency personnel or services, those personnel or services may not be available or capable of coming to their aid.

I further direct that specified units of the South Carolina National Guard, at the discretion of the Adjutant General in consultation with the Director of the Emergency Preparedness Division (EMD), may remain on duty to assist civil authorities in these counties, including Emergency Support Functions (ESF) 13 and 16, the South Carolina Department of Public Safety (DPS), and South Carolina Law Enforcement Division (SLED), taking all reasonable precautions as necessary for the preservation of life and property. South Carolina National Guard may supplement units as needed. DPS will remain to assist with all traffic control points as assigned and needed.

Persons in inland counties near the projected path of Hurricane Matthew should take all precautions to ensure their protection from potential high winds and inland flooding.

Further Proclamations and Orders deemed necessary to ensure the fullest possible protection of life and property during this State of Emergency shall be issued verbally by me, and thereafter published for dissemination within the succeeding twenty-four hour period.

Specific details of the areas for the evacuation are attached.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 6th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

20 EXECUTIVE ORDERS

Executive Order No. 2016-34

WHEREAS, effective at 3:00 PM on October 5, 2016, the undersigned issued Executive Order 2016-31 ordering a mandatory evacuation of persons located in the specified Evacuation Zones of Colleton (Zone A), Charleston (Zones A,B,C), Dorchester (Zones B,D,E,F), and Berkeley (Zones B,C,F,G,I) counties because of the imminent danger imposed by Hurricane Matthew;

WHEREAS, effective at 4:00 PM on October 6, 2016, the undersigned issued Executive Order 2016-33, ordering a mandatory evacuation of persons in Zone B of Colleton County;

WHEREAS, it has been made known to me by county officials that the effects of Hurricane Matthew and conditions throughout these four counties no longer pose a threat to the life, health, safety or welfare of residents and visitors;

WHEREAS, conditions now exist which justify allowing re-entry of persons into all Zones existing in Berkeley, Charleston, Colleton and Dorchester so that citizens may return to their homes and a state of normalcy as quickly as possible while South Carolina continues to recover from the devastating effects of Hurricane Matthew; and

WHEREAS, despite rescission of the order to evacuate Berkeley, Charleston, Colleton and Dorchester counties, these counties may still identify and restrict areas of each county to insure the safety of residents and visitors.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, I hereby rescind the evacuation provisions for Berkeley, Charleston, Colleton and Dorchester counties as set forth in Executive Orders 2016-31 and 2016-33, effect at 10 AM on October 9, 2016.

FURTHER, all persons may now return to these counties.

FURTHER, nothing in this order prohibits local officials from establishing a curfew or restricting access to areas of danger and thereby authorizes state officers to enforce local curfew for the welfare of and safety of residents and visitors during the recovery period.

FURTHER, all residents and visitors traveling in these counties should take due caution to travel safely across roads and bridges in returning, and understand that portions of these areas and/or their home may be without power.

FURTHER, this Order does not rescind evacuation orders for counties not listed.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 9th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-35

WHEREAS, effective at 3:00 PM on October 4, 2016, the undersigned issued Executive Order 2016-27 ordering a mandatory medical evacuation of all healthcare facilities licensed by the Department of Health and Environmental Control (“Department”) located in designated evacuation zones in Charleston, Dorchester, Berkeley, and Colleton counties; and

WHEREAS, effective at 3:00 PM on October 4, 2016, the undersigned issued Executive Order 2016-30 ordering a mandatory medical evacuation of all healthcare facilities licensed by the Department to reflect updated zones in these same counties; and

WHEREAS, these decisions were made due to the force of Hurricane Matthew and the imminent threat to the safety, security, and welfare of the residents and patients of coastal healthcare facilities, and considered necessary for the preservation of life or other emergency mitigation, response, or recovery; and

WHEREAS, after ordering the medical evacuations, the undersigned then ordered mandatory general evacuations of all persons in designated evacuation zones in Charleston, Dorchester, Berkeley, and Colleton counties through Executive Orders 2016-31 and 2016-33; and

WHEREAS, the undersigned issued Executive Order 2016-34 effective today, October 9, 2016, at 10:00 AM rescinding the general evacuation order for all persons in Berkeley, Charleston, Colleton and Dorchester counties, as there is no longer an imminent threat to the life, health, safety or welfare of residents and visitors.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, I hereby rescind the medical evacuation order for Berkeley, Charleston, Colleton, and Dorchester counties, effective at 3 PM, October 9, 2016.

FURTHER, nothing in this Order prohibits local officials from restricting access to areas of danger for the welfare of and safety of healthcare facility residents and visitors during the recovery period.

FURTHER, all healthcare facilities in these counties should take due caution to travel safely across roads and bridges in returning, and understand that portions of these areas and/or their home may be without power.

FURTHER, this Order does not rescind medical evacuation orders for counties where a general evacuation is still in effect. These medical evacuations will only be lifted pursuant to local official’s notification that these areas are safe. Medical evacuation orders for Jasper, Beaufort, Georgetown and Horry counties, pursuant to Executive Orders 2016-27 and 2016-30, will be rescinded when general evacuation orders for each of these counties is rescinded.

FURTHER, for the health and welfare of the citizens, dialysis centers licensed by the Department are allowed to open in all counties regardless of the medical or general evacuation order in place for that county.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 9th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

22 EXECUTIVE ORDERS

Executive Order No. 2016-36

WHEREAS, effective at 3:00 PM on October 4, 2016, the undersigned issued Executive Order 2016-27, ordering a mandatory medical evacuation of healthcare facilities licensed by the Department of Health and Environmental Control (“Department”) located in Hampton County; and

WHEREAS, effective at 3:00 PM on October 4, 2016, the undersigned issued Executive Order 2016-30, ordering a mandatory medical evacuation of health care facilities licensed by the Department to reflect updated zones, which included Hampton County in the list; and

WHEREAS, these decisions were made due to the force of Hurricane Matthew and the imminent threat to the safety, security, and welfare of the residents and patients of coastal healthcare facilities, and considered necessary for the preservation of life or other emergency mitigation, response, or recovery; and

WHEREAS, it has been made known to me by the Department that the effects of Hurricane Matthew and conditions throughout Hampton County no longer poses an imminent threat to the life, health, safety or welfare of healthcare facilities.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, I hereby rescind the medical evacuation order for Hampton County, effective at 3 PM, October 9, 2016.

FURTHER, nothing in this Order prohibits local officials from restricting access to areas of dangers for the welfare of and safety of healthcare facility residents and visitors during the recovery period.

FURTHER, all healthcare facilities in Hampton County should take due caution to travel safely across roads and bridges in returning, and understand that portions of these areas and/or their home may be without power.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 9th DAY OF OCTOBER, 2016.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2016-37

WHEREAS, effective at 3:00 PM on October 5, 2016, the undersigned issued Executive Order 2016-31 ordering a mandatory evacuation of persons located in Zone A of Beaufort and Jasper counties because of the imminent danger imposed by Hurricane Matthew; and

WHEREAS, effective at 4:00 PM on October 6, 2016, the undersigned issued Executive Order 2016-33, ordering a mandatory evacuation of persons in Zone B of Beaufort County because of the imminent danger imposed by Hurricane Matthew; and

WHEREAS, it has been made known to me by county officials that the effects of Hurricane Matthew and conditions throughout this county no longer pose an imminent threat to the life, health, safety or welfare of residents and visitors; and

WHEREAS, conditions now exist which justify allowing re-entry of persons into Beaufort County, Zones A and B, and Jasper County, Zone A, so that citizens may return to their homes and a state of normalcy as quickly as possible while South Carolina continues to recover from the devastating effects of Hurricane Matthew; and

WHEREAS, despite rescission of the order to evacuate Beaufort and Jasper counties, these counties may still identify and restrict areas of each county to insure the safety of residents and visitors.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, I hereby rescind the evacuation provisions for Beaufort and Jasper counties as set forth in Executive Orders 2016-31 and 2016-33, effective at 6:30 PM, October 9, 2016.

FURTHER, all persons may now return to these counties.

FURTHER, pursuant to Executive Order 2016-35, this Order rescinds all medical evacuation orders regarding Beaufort and Jasper counties.

FURTHER, nothing in this order prohibits local officials from establishing a curfew or restricting access to areas of danger and thereby authorizes state officers to enforce local curfew for the welfare of and safety of residents and visitors during the recovery period.

FURTHER, all residents and visitors traveling in these counties should take due caution to travel safely across roads and bridges in returning, and understand that portions of these areas and/or their home may be without power.

FURTHER, this Order does not rescind evacuation orders for counties not listed.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 9th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

Executive Order No. 2016-38

WHEREAS, October 9, 2016, the undersigned issued Executive Order 2016-32 ordering a mandatory evacuation of persons located in Zone A of Georgetown and Horry counties because of the imminent danger imposed by Hurricane Matthew; and

WHEREAS, it has been made known to me by county officials that the effects of Hurricane Matthew and conditions throughout these counties no longer pose an imminent threat to the life, health, safety or welfare of residents and visitors; and

WHEREAS, conditions now exist which justify allowing re-entry of persons into Zones A of Georgetown and Horry counties so that citizens may return to their homes and a state of normalcy as quickly as possible while South Carolina continues to recover from the devastating effects of Hurricane Matthew; and

WHEREAS, despite rescission of the order to evacuate Georgetown and Horry counties, these counties may still identify and restrict areas of each county to insure the safety of residents and visitors.

24 EXECUTIVE ORDERS

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor pursuant to the Constitution and Laws of South Carolina, effective at 8:00 AM, October 10, 2016, I hereby rescind the evacuation provisions for Georgetown and Horry counties as set forth in Executive Order 2016-32.

FURTHER, all persons may now return to these counties.

FURTHER, pursuant to Executive Order 2016-35, this Order rescinds all medical evacuation orders regarding Georgetown and Horry counties.

FURTHER, nothing in this order prohibits local officials from establishing a curfew or restricting access to areas of danger and thereby authorizes state officers to enforce local curfew for the welfare of and safety of residents and visitors during the recovery period.

FURTHER, all residents and visitors traveling in these counties should take due caution to travel safely across roads and bridges in returning, and understand that portions of these areas and/or their home may be without power.

FURTHER, with this Order all general and medical evacuation orders associated with the State of Emergency issued in Executive Order 2016-26 on October 4, 2016, are hereby rescinded. This shall include Executive Orders 2016-27, 2016-30, 2016-31, 2016-32, and 2016-33.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 10th DAY OF OCTOBER, 2016.**

NIKKI R. HALEY
Governor

**DEPARTMENT OF ADMINISTRATION
DIVISION OF STATE HUMAN RESOURCES**

NOTICE OF GENERAL PUBLIC INTEREST

2016 Amendments to the Division of State Human Resources Regulations

Instructions:

Replace R.19-700 through R.19-720.04 as shown below.

Text:

19-700. DEFINITIONS.

The following definitions should be used in conjunction with these Regulations.

ACADEMIC PERSONNEL – presidents, provosts, vice-presidents, deans, teaching and research staffs, and others of academic rank employed by the State educational institutions of higher learning or medical institutions of education and research.

AGENCY - a department, institution of higher learning, board, commission, or school that is a governmental unit of the State of South Carolina. Special purpose districts, political subdivisions, and other units of local government are excluded from this definition.

AGENCY HEAD - the person who has authority and responsibility for an agency.

AGENCY HIRE DATE – the date an employee begins employment with an agency without any adjustments.

APPEAL - the request by a covered employee to the State Human Resources Director for review of an agency's final decision concerning a grievance.

APPOINTING AUTHORITY - the agency head or other person or group of persons empowered to employ.

BASE PAY - the rate of pay approved for an employee in his position exclusive of any additional pay, such as supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay, or market or geographic differential pay.

BASE PERIOD - the period of time that defines the regular annual schedule of employment (e.g., either a semester, an academic year, or ten months to 12 months).

BREAK IN SERVICE – an interruption of continuous State service. An employee experiences a break in State service when the employee either (1) separates from State service; (2) moves from one State agency to another and is not employed by the receiving agency within 15 calendar days following the last day worked (or approved day of leave at the transferring agency); (3) remains on leave for a period of more than 12 months; (4) separates from State service as a result of a reduction in force and is not recalled to the original position or reinstated with State government within 12 months of the effective date of the separation; (5) involuntarily separates from State service and the agency's decision is upheld by the State Employee Grievance Committee or by the courts; or (6) moves from a full-time equivalent (FTE) position to a temporary, temporary grant, or time-limited position.

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CALENDAR DAYS - the sequential days of a year. For purposes of calculating time frames under the State Employee Grievance Procedure Act, the time must be computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday, or holiday, it must be excluded.

CLASS - a group of positions sufficiently similar in the duties performed; degree of supervision exercised or received; minimum requirements of education or experience; and the knowledge, skills, and abilities required that the Division of State Human Resources applies the same State class title and the same State salary range to each position in the group.

CLASS/UNCLASSIFIED STATE TITLE CODE - the alphanumeric identification assigned to a particular class or unclassified State title.

CLASSIFIED POSITION – an FTE position that has been assigned to a class.

CLASSIFICATION PLAN – the classification plan as authorized by § 8-11-230 which includes the non-Higher Education classification plan and the Higher Education classification plan authorized by the Higher Education Efficiency and Administrative Policies Act of 2011.

CLASSIFIED SERVICE – all of those positions in State service which are subject to the position classification plan.

CLASS SERIES - a group of classes which are sufficiently similar in kind of work performed to warrant similar class titles, but sufficiently different in level of responsibilities to warrant different pay bands.

CLASS SPECIFICATION – the official description approved by the Division of State Human Resources providing examples of the kind of work and level of responsibility normally assigned to positions that may be allocated to the class.

CLASS TITLE - the name assigned to a class by the Division of State Human Resources.

CLASS/UNCLASSIFIED STATE TITLE DATE – the date an employee enters his current class or unclassified State title.

COMPENSATION – monetary payment for services rendered.

CONFLICT OF INTEREST - any action or situation in which an individual's personal or financial interest or that of a member of his household might conflict with the public interest.

CONTINUOUS STATE SERVICE – service with one or more State agencies without a break in service.

CONTINUOUS STATE SERVICE DATE – the date that reflects the first date of State employment without a break in service.

COVERED EMPLOYEE - a full-time or part-time employee occupying a part or all of an FTE position who has completed the probationary period and has a “meets” or higher overall rating on the employee’s performance evaluation and who has grievance rights. Instructional personnel are covered upon the completion of one academic year except for faculty at State technical colleges upon the completion of not more than two full academic years’ duration. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees in positions such as temporary, temporary grant, or time-limited employees who do not have grievance rights.

DEMOTION – the assignment of an employee by the appointing authority from one established position to a different established position having a lower State salary range or, for employees in positions without a State salary range, assignment of a lower rate of pay to the employee except when the employee’s job duties also are decreased for nonpunitive reasons.

DUAL EMPLOYMENT –an agreement by which an employee within an FTE position with an employing agency accepts temporary, part-time employment with the same or another agency.

EMPLOYEE - any person in the service of an agency who receives compensation from the agency and where the agency has the right to control and direct the employee in how the work is performed.

EMPLOYING AGENCY – the agency having primary control over the services of the employee.

EXEMPT EMPLOYEE - an employee who is exempt from both the minimum wage and overtime requirements of the Fair Labor Standards Act due to employment in a bona fide executive, administrative, professional, or outside sales capacity.

FULL-TIME EQUIVALENT or FTE - a numerical value expressing a percentage of time in hours and of funds related to a particular position authorized by the General Assembly.

GRIEVANCE - a complaint filed by a covered employee or the employee’s representative regarding an adverse employment action taken by an agency designated in § 8-17-330 of the South Carolina Code of Laws.

HOLIDAY – any holiday recognized by State law or enumerated in the South Carolina Code of Laws § 53-5-10.

HOLIDAY COMPENSATORY TIME - leave time earned by an employee for work performed on a holiday.

IN-BAND INCREASE - a salary increase which is awarded within the pay band assigned to the employee's class.

INITIAL EMPLOYMENT - the employment of a person newly hired into State government in a classified or unclassified FTE position.

INSTRUCTIONAL PERSONNEL – for purposes of the State Employee Grievance Procedure Act, employees of an agency that has primarily an educational mission, excluding the State technical colleges and excluding those employees exempted in § 8-17-370 10. of the South Carolina Code of Laws, who work an academic year.

INVOLUNTARY REASSIGNMENT - the movement of an employee’s principal place of employment in excess of 30 miles from the prior workstation at the initiative of the agency. The reassignment of an employee by an agency in excess of 30 miles from the prior workstation to the nearest facility with an available position having the same State salary range for which the employee is qualified is not considered involuntary reassignment.

LEAVE ACCRUAL DATE – the date used to calculate an employee’s rate of annual leave earnings, which includes: (1) all State service in an FTE position, including part-time service, adjusted to reflect periods where there was a break in service; and, (2) all service as a certified employee in a permanent position of a school district of this State.

LEAVE DONOR - an employee of an employing agency whose voluntary written request for donation of sick or annual leave to the pool leave account of his employing agency is granted.

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LEAVE RECIPIENT - an employee of an employing agency who has a personal emergency and is selected and approved to receive sick or annual leave from the pool leave account of his employing agency.

MEDIATION - an alternative dispute resolution process whereby a mediator who is an impartial third party acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. The process is informal and non-adversarial with the objective of helping the disputing parties reach a mutually acceptable agreement.

MEDIATION-ARBITRATION - an alternative dispute resolution process that provides for the submission of an appeal to a mediator-arbitrator, an impartial third party who conducts conferences to attempt to resolve the grievance by mediation and render a decision that is final and binding on the parties if the appeal is not mediated.

NONEXEMPT EMPLOYEE - an employee who is covered by the Fair Labor Standards Act and who is, therefore, subject to both the minimum wage and overtime requirements of the law.

DIVISION OF STATE HUMAN RESOURCES (DSHR) formerly referenced as the Office of Human Resources (OHR) - the central State human resources entity under the Department of Administration.

PAY BAND – for classified positions, the dollar amount between the minimum and maximum rates of pay to which a class is assigned by DSHR.

PERFORMANCE REVIEW DATE – the first day which marks the beginning of a new performance review period.

PERMANENT STATUS – the status attained by an employee upon completion of a probationary or trial period in a class or an unclassified State title.

PERSONNEL NUMBER (PERNR) – the employee identification number

PERSONAL EMERGENCY - a catastrophic and debilitating medical situation, severely complicated disability, severe accident case, family medical emergency, or other hardship situation that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

POSITION - those duties and responsibilities constituting a single job.

POSITION NUMBER - a unique number assigned to an FTE position by DSHR.

PROBATIONARY STATUS - the status of an employee during the probationary period.

PROBATIONARY EMPLOYEE - a full-time or part-time employee occupying a part or all of an FTE position in the initial working test period of employment with the State of 12 months' duration for non-instructional personnel, of the academic year duration for instructional personnel except for those at State technical colleges, or of not more than 2 full academic years' duration for faculty at State technical colleges. An employee who receives an unsatisfactory performance evaluation during the probationary period must be terminated before becoming a covered employee.

PROBATIONARY PERIOD - an initial working test period of employment in an FTE position with the State of not more than 12 months' duration for non-instructional personnel or the academic year duration for instructional personnel except for those at State technical colleges, or of not more than 2 full academic years' duration for faculty at State technical colleges. An employee who receives an unsatisfactory performance evaluation during the probationary period must be terminated before becoming a covered employee.

PROMOTION – the assignment of an employee by the appointing authority from one established position to a different established position having a higher State salary range or, for positions without a State salary range, having a higher rate of pay. Failure to be selected for a promotion is not an adverse employment action that can be considered as a grievance or appeal.

PUNITIVE RECLASSIFICATION – for classified employees, the assignment of a position in one class to a different class with a lower pay band with the sole purpose to penalize the covered employee.

REALLOCATION – for classified positions, the assignment of all positions in a class from one pay band to another pay band.

REASSIGNMENT - the movement within an agency of an employee from one position to another position having the same State salary range, or the movement of a position within an agency which does not require reclassification.

RECLASSIFICATION – for classified positions, the assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position.

REDUCTION IN FORCE - the procedure used by an agency to eliminate or reduce a portion of one or more filled FTE positions in one or more organizational units within the agency due to budgetary limitations, shortage of work, organizational changes or outsourcing/privatization.

REEMPLOYMENT - the employment of a person following a break in service in an FTE position.

REINSTATEMENT - the return of an employee to State service without a break in service. Examples include return resulting from: (1) the Reduction in Force procedure; (2) the reversal of a termination under the State Employee Grievance Procedure Act; (3) the settlement of a complaint negotiated under an authorized administrative agency; or, (4) the order of a court.

REQUESTING AGENCY – for dual employment purposes, the agency engaging the services of and compensating any employee for services which are clearly not a part of the employee's regular job.

RESIGNATION – written or oral notification by an employee of his relinquishment of employment.

SEPARATION – action initiated by either the agency or employee which ends the employment relationship.

SHIFT DIFFERENTIAL - the additional amount of pay awarded to employees who are assigned to an evening, night, weekend, rotating, or split-shift.

STATE EMPLOYEE GRIEVANCE COMMITTEE - the committee composed of State employees who are appointed by the Director of the Department of Administration and who conduct hearings involving appeals filed by covered employees.

STATE HIRE DATE - the first date of State employment in an FTE position adjusted to reflect periods when there were breaks in service.

STATE HUMAN RESOURCES DIRECTOR - the head of the Division of State Human Resources of the Department of Administration, or his designee who is responsible for statewide coordination of human resources programs.

STATE SALARY RANGE – the dollar amount between the minimum and maximum rates of pay as established by DSHR.

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STATE SERVICE - total employment defined in years, months, and days in which an employee has occupied an FTE position, including part-time service.

SUPERVISOR - an individual who directs one or more subordinates and is designated as the rater on those subordinates' performance evaluations.

SUPPLEMENT – any compensation, excluding travel reimbursement, from an affiliated public charity, foundation, clinical faculty practice plan, or other public source or any supplement from a private source to the salary appropriated for a State employee and fixed by the State.

SUSPENSION - an enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

TEACHERS - individuals employed in instructional positions for which certification is required.

TEMPORARY EMPLOYEE - a full-time or part-time employee who does not occupy an FTE position, whose employment is not to exceed one year, and who is not a covered employee.

TEMPORARY GRANT EMPLOYEE - a full-time or part-time employee who does not occupy an FTE position and is hired to fill a position specified in and funded by a federal grant, public charity grant, private foundation grant, or research grant and who is not a covered employee.

TEMPORARY POSITION - a full-time or part-time non-FTE position created for a period of time not to exceed one year.

TEMPORARY SALARY ADJUSTMENT - compensation not included in an employee's base salary that is awarded for a limited period of time.

TERMINATION – for purposes of the State Employee Grievance Procedure Act, the action taken by an agency against an employee to separate the employee involuntarily from employment.

TIME-LIMITED PROJECT EMPLOYEE - a full-time or part-time employee who does not occupy an FTE position who is hired to fill a position with time-limited project funding approved or authorized by the appropriate State authority, and who is not a covered employee.

TRANSFER - the movement to a different agency of an employee from one position to another position having the same State salary range, or the movement of a position from one agency to another agency which does not require reclassification.

TRIAL PERIOD – the initial working test period of six months required of a covered employee upon movement to any class or an unclassified State title in which the employee has not held permanent status.

TRIAL STATUS – the status of a full-time or part-time covered employee who is in the initial working test period of six months following the movement of the employee or the employee's position to any class or unclassified State title in which the employee has not held permanent status.

UNCLASSIFIED POSITION – an FTE position that has been assigned to an unclassified State title.

UNCLASSIFIED SERVICE – all those positions in the State service which are not subject to the position classification plan.

UNCLASSIFIED STATE TITLE - the name assigned to an unclassified position or to a group of similar positions by the Division of State Human Resources.

WORKDAY (AVERAGE) – the number of hours upon which leave and holidays are based. To determine the number of hours in an average workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reports to work).

19-701. GENERAL RULES.

SCOPE AND PURPOSE

Human Resources Regulations Sections 19-700 through 19-720 are applicable to all agencies that are not specifically exempted by § 8-11-260 of the South Carolina Code of Laws.

19-701.01. EQUAL EMPLOYMENT OPPORTUNITY.

The State of South Carolina is an equal employment opportunity employer.

19-701.02. CONSTRUCTION OF WORDS.

All words in these Regulations referencing the masculine gender shall apply to females as well. All words in these Regulations referencing "written," "in writing," or similar language shall also apply to electronic documents.

19-701.03. STATE AND FEDERAL LAWS.

These Regulations are in addition to the requirements of applicable State and federal laws.

19-701.04. AUDITS BY THE DIVISION OF STATE HUMAN RESOURCES (DSHR).

All information and documentation required by these Regulations are subject to audit by DSHR.

19-701.05. CENTRAL HUMAN RESOURCES DATA SYSTEM.

As required by § 8-11-230 of the South Carolina Code of Laws, DSHR provides a central database to maintain human resources data on all employees. To maintain the integrity and completeness of the system, all agencies are required to submit appropriate information in a timely manner.

19-701.06. ETHICS ACT.

The Ethics Act governs the employment of family members and conflicts of interest. For additional information consult the Ethics Act (§ 8-13-100 through § 8-13-1520 of the South Carolina Code of Laws), the Ethics Commission opinions, and the State Ethics Commission.

A. Employment of Family Members

No public official, public member, or public employee may cause the employment, appointment, promotion, reassignment, transfer, or advancement of a family member to a State or local office or position in which the public official, public member, or public employee supervises or manages. Family member means an individual who is (a) the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild, or (b) a member of the individual's immediate family. Immediate family is defined as follows:

1. A child residing in a candidate's, public official's, public member's, or public employee's household;

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2. A spouse of a candidate, public official, public member, or public employee; or

3. An individual claimed by the candidate, public official, public member, or public employee or the candidate's, public official's, or public employee's spouse as a dependent for income tax purposes.

B. Conflict of Interest

No employee may accept any work or compensation that could be reasonably construed as a conflict of interest. Acceptance without proper prior approval of work assignment or compensation that is found to be a conflict of interest may be grounds for disciplinary action or termination. The propriety of an employment situation or compensation for services rendered shall be considered by all parties concerned. Counsel from the Office of the Attorney General or the State Ethics Commission may be necessary to make such determinations.

19-701.07. EMPLOYMENT OUTSIDE OF STATE GOVERNMENT.

Agencies may adopt policies and procedures for the approval and regulation of jobs held by employees outside of State government. Such policies shall be in accordance with law and the policies and procedures of the Department of Administration. An agency may withdraw approval for such secondary employment for reasonable work-related issues.

19-701.08. SOLICITATION AND DISTRIBUTION.

Solicitations and distributions by agency employees or outside individuals are generally prohibited on agency property during working hours. Each agency is responsible for enforcing this Regulation to minimize the disruption of agency business. For example, agencies may allow for fund raising activities by charitable organizations which are certified by the Secretary of State. Any fund raising activities must be approved by the agency head or his designee and conducted under agency supervision.

19-701.09. PILOT PROGRAMS TO CREATE INNOVATION IN STATE GOVERNMENT.

Notwithstanding other provisions of law, the Department of Administration is authorized to enter into pilot programs with individual agencies or groups of agencies in order to create innovations in State government. The Department of Administration will monitor the findings and results of pilot programs to determine if legislative recommendations should be provided to the General Assembly.

19-701.10. FTE POSITIONS.

An employee may not occupy more than one FTE position.

19-702. CLASSIFICATION PLAN.

SCOPE AND PURPOSE

This Regulation governs the establishment, maintenance, and administration of the Classification Plan as defined in 19-700 applicable to all positions in the classified service.

19-702.01. STATEMENTS OF POLICY.

A. The Department of Administration designates the State Human Resources Director to administer all Department of Administration policies and procedures relating to the Classification Plan.

B. The Division of State Human Resources (DSHR) shall establish the Classification Plan to consist of (1) all approved classes of positions, (2) the allocation of each position to its proper class, (3) the class specifications for all approved classes of positions, and (4) the Regulations and procedures governing the administration of the Classification Plan.

C. A class shall be established for each broad category of work and its level of difficulty and responsibility.

D. Each class shall be defined by a class specification and shall be assigned to an appropriate pay band.

E. The Division of State Human Resources will maintain a list of approved classes.

F. No action shall be taken to fill any position until it has been authorized by the General Assembly and established in accordance with the Classification Plan. When establishing a classified position, DSHR assigns a position number, class title, class code, slot number, and pay band.

G. A position may move between the classified and unclassified systems provided the agency does not exceed its respective number of classified and unclassified authorized full-time equivalent (FTE) positions. (*Refer to Section 19-704.08.*)

H. The Division of State Human Resources is authorized to delegate to agencies by written agreement classification programs that are described in this Regulation. Agencies with a delegation agreement shall comply with all State and federal laws and regulations, Department of Administration policies and guidelines, and the provisions contained in the delegation agreement. The delegation agreement shall constitute a contractual relationship between DSHR and the requesting agency and may be terminated or altered at the discretion of DSHR.

I. The State Human Resources Director shall have the authority to make exceptions to these Regulations.

19-702.02. ADMINISTRATION OF THE PLAN.

A. The State Human Resources Director shall administer the Classification Plan.

B. Before an agency fills or alters a position, DSHR must approve the following actions:

1. The initial classification of the position;
2. The reclassification of the position; or
3. The creation of new classes and the revision or abolishment of existing classes.

C. The Division of State Human Resources shall coordinate periodic studies to ensure that the Classification Plan is current and uniform.

D. As requested, agencies must submit to DSHR all current position descriptions, organizational charts, and other information as needed to administer the classification plan.

19-702.03. CLASS SPECIFICATIONS.

A. Each class specification shall describe in general terms examples of the kind of work and level of responsibility normally assigned positions that may be allocated to the class. The exact duties and responsibilities of positions allocated to any one class may differ; however, all positions allocated to a class shall be sufficiently similar as to kind of work, level of difficulty or responsibility, and qualification requirements.

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B. The Division of State Human Resources shall develop class specifications which include the following:

1. Class Title and Code

2. General Nature of Work - the brief statement summarizing the work to be performed by individuals in this class.

3. Guidelines for Class Use/Distinguishing Characteristics - the brief statement summarizing the level of work performed, the breadth of job responsibilities, and level of supervision given or received. This section may be omitted if it is not needed for further clarification.

4. Examples of Work - statements of duties that reflect responsibility common to positions in the class, but not necessarily fully descriptive of any one position in the class.

5. Knowledge, Skills and Abilities - a list of individual characteristics each of which is required for the successful performance of one or more job duties of the class, but not necessarily fully descriptive of the requirements for any one position in the class.

6. Necessary Special Requirements - statements of professional or physical requirements, such as licensure or certification, which may be mandatory for some or all positions in the class. This section may be omitted if it is not needed for further clarification.

7. Minimum Requirements - a statement of the minimum combination of education and experience required for the satisfactory performance of the duties of positions in the class, but not necessarily fully descriptive of the education and experience required for any one position in the class. For an equivalency to substitute for the minimum requirements, an agency must submit a written request to the State Human Resources Director for approval.

C. Current class specifications shall be maintained by DSHR. The Division of State Human Resources will notify agencies of any revisions and additions to the class specifications.

19-702.04. POSITION DESCRIPTIONS.

A. The Division of State Human Resources shall develop a position description to be used by agencies in describing assigned duties and other information necessary to determine the proper classification of each position. An agency may develop a position description which must be approved by DSHR prior to implementation.

B. The position description shall serve as a record of the duties assigned to an individual position in a class. The position description is used to compare positions to ensure uniformity of classification and as a basis for other human resources decisions.

C. The position description shall include an accurate description of assigned duties and responsibilities and other pertinent information concerning a position. In contrast to general definitions of the level of work and responsibilities, the position description shall include specific duties and responsibilities assigned to a position, the percentage of time normally devoted to each duty, and the designation of essential and marginal functions.

D. Position descriptions should be updated to reflect any changes in the assigned job duties and responsibilities or any other pertinent information concerning the position. The supervisor should discuss this updated position description with the employee.

E. Agencies shall submit current position descriptions to DSHR. Current position descriptions shall be maintained by both the agency and DSHR.

19-702.05. RECLASSIFICATION OF POSITIONS.

- A. An established position may be reclassified from one class to a different class as a result of a natural or an organizational change in the duties or responsibilities of the position.
- B. When reclassifying a filled position, the assignment of new duties or responsibilities should not have the effect of creating a new position.
- C. The Division of State Human Resources shall approve all reclassifications.

19-702.06. POSITION NUMBERING SYSTEM.

The Division of State Human Resources shall develop and maintain a position numbering system that will identify each established position.

19-703. JOB VACANCY ANNOUNCEMENTS.**SCOPE AND PURPOSE**

This Regulation governs the announcement of vacancies in all positions in the classified service.

19-703.01. STATEMENTS OF POLICY.

- A. The Department of Administration designates the Division of State Human Resources(DSHR)to administer all policies and procedures relating to the South Carolina Code of Laws, § 8-11-120, Report of Job Vacancies.
- B. Applicants selected for hiring must meet the minimum requirements of the class as established by DSHR unless the State Human Resources Director has approved an equivalency.

19-703.02. REPORT OF JOB VACANCIES.

- A. In addition to any other requirement provided by law, when a job vacancy occurs in any state office, agency, department, or other division of the executive branch of state government, the appointing authority must post a notice with the Division of State Human Resources of the Department of Administration and the South Carolina Department of Employment and Workforce at least five working days before employing a person to fill the vacancy. The posting must give notice of the job vacancy, describe the duties to be performed by a person, employed in that position and include any other information required by law.
- B. The notification of a vacancy must include the following data:
 1. The title of the position and a summary description of the job responsibilities for the vacant position if needed for clarification;
 2. The entry salary or State salary range for the vacant position;
 3. The name of the agency where the vacant position exists;
 4. A description of the application process for the vacant position;
 5. Residency requirements, if any, for the vacant position;

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6. The class code and the position number of the vacant position;

7. The minimum requirements for the vacant position, as well as preferred qualifications, if any:

a. For the purpose of reporting a job vacancy, minimum requirements are the minimum training and experience requirements that are established by the agency for the vacant position. An agency's minimum training and experience requirements shall be either the minimum requirements that DSHR has established for the class or additional requirements established by the agency that are directly related to the successful performance of essential job functions as described on the position description. Any additional requirements must exceed the minimum requirements that DSHR has established for the class.

b. Preferred qualifications are defined as any other qualifications that are desirable, but not mandatory, for the performance of essential job functions upon entry into the position;

8. The opening and closing dates for applying for the vacant position;

9. A statement certifying that the employing agency is an equal employment opportunity/affirmative action employing agency; and

10. The normal work schedule and whether the position is full-time or part-time.

19-703.03. INTERNAL POSTING AND DISTRIBUTION OF ANNOUNCEMENTS.

The agency must notify employees where the vacancy exists. If the vacancy is a promotional opportunity that requires work experience within the agency to qualify for the promotion, notice of the vacancy must be posted for five workdays, and the notice does not have to be sent to the South Carolina Department of Employment and Workforce or to the Division of State Human Resources.

19-703.04. EXEMPTIONS TO POSTING JOB ANNOUNCEMENTS.

A. If an emergency situation exists requiring the vacancy to be filled immediately, certification of the emergency must be made to and approved by the agency head or his designee waiving the posting requirement at the agency and State level.

B. When an agency decides to promote an employee one organizational level above the employee's current level, the posting requirement may be waived.

19-703.05. FREEDOM OF INFORMATION ACT REQUESTS.

A public body may, but is not required to, exempt from disclosure all materials, regardless of form, gathered by the public body during a search to fill an employment position, except that materials relating to the final pool of applicants under consideration comprised of at least three people for a position must be made available for public inspection and copying. In addition to making available for public inspection and copying the materials described in this item, the public body must disclose, upon request, the number of applicants considered for a position. For the purpose of this item, materials relating to the final pool of applicants comprised of at least three people, do not include an applicant's income tax returns, medical records, social security number, or information otherwise exempt from disclosure by § 30-4-40 of the South Carolina Code of Laws.

19-704. MOVEMENT AND STATUS.**SCOPE AND PURPOSE**

This Regulation governs the movement of classified and unclassified employees and positions. This Regulation also governs the status of classified and unclassified employees except those employees exempt from coverage under the State Employee Grievance Procedure Act.

19-704.01. STATEMENTS OF POLICY.

A. Movement of a person into or between full-time equivalent (FTE) positions may occur by:

1. Initial Employment or Reemployment
2. Promotion
3. Demotion
4. Reassignment
5. Transfer

(Refer to Sections 19-704.02 through 19-704.05.)

B. Movement of a position may occur through a reclassification in the classified system or an unclassified State title change in the unclassified system. *(Refer to Sections 19-704.06 and 19-704.07.)*

C. A position may move between the classified and unclassified systems provided the agency does not exceed its number of classified and unclassified authorized FTEs. *(Refer to Section 19-704.08.)*

D. A person who moves into or between an FTE position(s) in the classified system must meet minimum requirements established in the class specification. For an equivalency to substitute for the minimum requirements, an agency must submit a written request to the State Human Resources Director for approval.

E. When a person moves into or between an FTE position(s) or when an employee's position is reclassified or has an unclassified State title change, the following types of status apply:

1. Probationary – The status of a full-time or part-time employee occupying all or part of an FTE position in the initial working test period of employment with the State of:

- a. Twelve months' duration for noninstructional personnel;
- b. The academic year duration for instructional personnel (teachers); or
- c. Not more than two full academic years' duration for faculty at State technical colleges.

2. Covered – The status of a full-time or part-time employee occupying all or part of an FTE position who has completed the probationary period and has a "meets" or higher overall rating on the employee's performance evaluation and has grievance rights. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee.

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3. Trial – The status of a full-time or part-time covered employee who is in the initial working test period of six months following the movement of the employee or the employee's position to any class or unclassified State title in which the employee has not held permanent status.

F. Permanent Status in a Class or Unclassified State Title

An employee shall attain permanent status in a class or unclassified State title upon completion of a probationary or trial period in that class or unclassified State title. Once attained, permanent status in a class or unclassified State title is retained throughout the employee's continuous State service.

G. Performance Review Dates

For the establishment of an employee's performance review date, refer to Sections 19-715.02 through 19-715.04.

19-704.02. INTIAL EMPLOYMENT OR REEMPLOYMENT.

A. Initial employment is defined as the employment of a person newly hired into State government in a classified or unclassified FTE position.

B. Reemployment is defined as the employment of a person following a break in service in a classified or unclassified FTE position.

C. Probationary Status

Upon initial employment or reemployment the employee shall be in probationary status.

D. Probationary Period

1. An employee in probationary status must complete a probationary period of:

- a. Twelve months' duration for noninstructional personnel;
- b. The academic year duration for instructional personnel (teachers); or
- c. Not more than two full academic years' duration for faculty at State technical colleges.

2. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in any temporary capacity toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

3. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

19-704.03. PROMOTION.

A. Promotion is defined as the assignment of an employee by the appointing authority from one established position to a different established position:

1. Having a higher State salary range; or
2. For positions without a State salary range, having a higher rate of pay.

B. Probationary or Trial Status

Upon promotion, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the class or unclassified State title to which promoted, the promotion shall be with permanent status in the class or unclassified State title and the employee is not in trial status.

C. Probationary Period

1. An employee in probationary status who is promoted must complete a probationary period of:

- a. Twelve months' duration for noninstructional personnel;
- b. The academic year duration for instructional personnel (teachers); or
- c. Not more than two full academic years' duration for faculty at State technical colleges.

2. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class or unclassified State title toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

3. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

D. Trial Period

A covered employee who is promoted to a position in which he has not held permanent status in the class or unclassified State title must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

19-704.04. DEMOTION.

A. Demotion is defined as the assignment of an employee by the appointing authority from one established position to a different established position:

1. Having a lower State salary range; or
2. For employees in positions without a State salary range, assignment of a lower rate of pay to the employee except when the employee's job duties also are decreased for nonpunitive reasons.

B. Probationary or Trial Status

Upon demotion, an employee will be in probationary or trial status; however, if a covered employee previously held permanent status in the class or unclassified State title to which demoted, the demotion shall be with permanent status in the class or unclassified State title and the employee is not in probationary or trial status.

C. Probationary Period

1. An employee in probationary status who is demoted must complete a probationary period of:

- a. Twelve months' duration for noninstructional personnel;
- b. The academic year duration for instructional personnel (teachers); or

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c. Not more than two full academic years' duration for faculty at State technical colleges.

2. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class or unclassified State title toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

3. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

D. Trial Period

A covered employee who is demoted to a position in which he has not held permanent status in the class or unclassified State title must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

19-704.05. REASSIGNMENT AND TRANSFER.

A. Reassignment is defined as the movement within an agency of an employee from one position to another position having the same State salary range, or the movement of a position within an agency which does not require reclassification.

B. Transfer is defined as the movement to a different agency of an employee from one position to another position having the same State salary range, or the movement of a position from one agency to another agency which does not require reclassification.

C. Probationary or Trial Status

Upon reassignment or transfer, an employee shall be in probationary or trial status; however, a covered employee with permanent status in the class or unclassified State title is not in probationary or trial status when the reassignment or transfer:

1. Does not change the employee's class or unclassified State title; or

2. Is to a class or unclassified State title in which the employee already holds permanent status in the class or unclassified State title.

D. Probationary Period

1. An employee in probationary status who is reassigned or transferred must complete a probationary period of:

a. Twelve months' duration for noninstructional personnel;

b. The academic year duration for instructional personnel (teachers); or

c. Not more than two full academic years' duration for faculty at State technical colleges.

2. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class or unclassified State title toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period. If the reassignment or transfer is not to a new class or unclassified State title, the employee's probationary period shall not change.

3. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

E. Trial Period

A covered employee who is reassigned or transferred to a position in which he has not held permanent status in the class or unclassified State title must complete a six-month trial period. This period may be extended by the agency head up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

19-704.06. RECLASSIFICATION.

For classified positions, reclassification is defined as the assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position. Reclassifications can occur:

A. Upward – The position moves from one class to another class having a higher State salary range.

1. Probationary or Trial Status

Upon upward reclassification, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the class to which reclassified, the upward reclassification shall be with permanent status in the class and the employee is not in trial status.

2. Probationary Period

a. An employee in probationary status whose position is reclassified upward must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

3. Trial Period

A covered employee who is reclassified upward to a position in which he has not held permanent status in the class must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

B. Downward – The position moves from one class to another class having a lower State salary range.

1. Probationary or Trial Status

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Upon downward reclassification, an employee will be in probationary or trial status; however, if a covered employee previously held permanent status in the class to which reclassified, the downward reclassification shall be with permanent status in the class and the employee is not in trial status.

2. Probationary Period

a. An employee in probationary status whose position is reclassified downward must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous class toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

3. Trial Period

A covered employee who is reclassified downward to a position in which he has not held permanent status in the class must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

C. Lateral – The position moves from one class to another class having the same State salary range.

1. Probationary or Trial Status

Upon lateral reclassification, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the class to which reclassified, the lateral reclassification shall be with permanent status in the class and the employee is not in trial status.

2. Probationary Period

a. An employee in probationary status whose position is reclassified laterally must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion the agency head or his designee may count up to six months of continuous satisfactory service in the previous class toward the employee's probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

3. Trial Period

A covered employee who is reclassified laterally to a position in which he has not held permanent status in the class must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

19-704.07. UNCLASSIFIED STATE TITLE CHANGES.

An unclassified State title change is defined as the assignment of a position in one unclassified State title to another unclassified State title which is the result of a natural or an organizational change in duties or responsibilities of the position. An unclassified State title change can occur:

A. Upward – The position moves from one unclassified State title to another unclassified State title having a higher State salary range or for a position without a State salary range, the position moves from one unclassified State title to another unclassified State title with higher level job duties or responsibilities as defined by the agency.

1. Probationary or Trial Status

Upon upward unclassified State title change, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the unclassified State title to which moved, the upward move shall be with permanent status in the unclassified State title and the employee is not in trial status.

2. Probationary Period

a. An employee in probationary status whose position is moved upward must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous unclassified State title toward the probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

3. Trial Period

A covered employee whose position is moved upward to an unclassified State title in which he has not held permanent status must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

B. Downward – The position moves from one unclassified State title to another unclassified State title having a lower State salary range or for a position without a State salary range, the position moves from one unclassified State title to another unclassified State title with lower level job duties or responsibilities as defined by the agency.

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1. Probationary or Trial Status

Upon downward unclassified State title change, an employee will be in probationary or trial status; however, if a covered employee previously held permanent status in the unclassified State title to which moved, the downward move shall be with permanent status in the unclassified State title and the employee is not in trial status.

2. Probationary Period

a. An employee in probationary status whose position is moved downward must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous unclassified State title toward the probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

3. Trial Period

A covered employee whose position is moved downward to an unclassified State title in which he has not held permanent status must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

C. Lateral – The position moves from one unclassified State title to another unclassified State title having the same State salary range or an equivalent level of job duties or responsibilities as defined by the agency.

1. Probationary or Trial Status

Upon lateral unclassified State title change, an employee shall be in probationary or trial status; however, if a covered employee previously held permanent status in the unclassified State title to which moved, the lateral move shall be with permanent status in the unclassified State title and the employee is not in trial status.

2. Probationary Period

a. An employee in probationary status whose position is moved laterally must complete a probationary period of:

- (1) Twelve months' duration for noninstructional personnel;
- (2) The academic year duration for instructional personnel (teachers); or
- (3) Not more than two full academic years' duration for faculty at State technical colleges.

b. At his discretion, the agency head or his designee may count up to six months of continuous satisfactory service in the previous unclassified State title toward the probationary period which would result in a reduction in the length of the employee's performance review period.

c. An employee who performs unsatisfactorily during the probationary period must be terminated before becoming a covered employee.

3. Trial Period

A covered employee whose position is moved laterally to an unclassified State title in which he has not held permanent must complete a six-month trial period. This period may be extended up to 90 calendar days upon written notification to the employee of the extension prior to the end of the six-month trial period.

19-704.08. MOVEMENT BETWEEN CLASSIFIED SERVICE AND UNCLASSIFIED SERVICE.

A. Classified Service to Unclassified Service

1. Movement of the Employee

a. When an employee moves from a classified position to an unclassified position with a State salary range, the employee's status will be governed by Regulations 19-704.03 through 19-704.05 concerning the promotion, demotion, reassignment, or transfer of an unclassified employee.

b. When an employee moves from a classified position to an unclassified position without a State salary range, the agency shall determine whether the new position has a higher, lower, or equivalent level of job duties or responsibilities than the former position. Based on that determination, the movement will be a promotion, demotion, reassignment, or transfer, and the employee's status will be governed by Sections 19-704.03 through 19-704.05.

2. Movement of the Position

a. When the position an employee occupies moves from the classified service to the unclassified service, the employee's status will be governed by Regulation 19-704.07 concerning the movement of unclassified positions.

b. When the position an employee occupies moves from classified service to become an unclassified position without a State salary range, the agency shall determine whether the new position has a higher, lower, or equivalent level of job duties or responsibilities than the former position. Based on that determination, the employee's status will be governed by Section 19-704.07 concerning the movement of unclassified positions.

B. Unclassified Service to Classified Service

1. Movement of the Employee

a. When an employee moves from an unclassified position with a State salary range to a classified position, the employee's status will be governed by Sections 19-704.03 through 19-704.05 concerning the promotion, demotion, reassignment, or transfer of classified employees.

b. When an employee moves from an unclassified position without a State salary range to a classified position, the agency shall determine whether the new position has a higher, lower, or equivalent level of job duties or responsibilities than the former position. Based on that determination, the movement will be a

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promotion, demotion, reassignment, or transfer, and the employee's status will be governed by Sections 19-704.03 through 19-704.05.

2. Movement of the Position

a. When the position an employee occupies moves from the unclassified service to the classified service, the employee's status will be governed by Section 19-704.06 concerning the reclassification of positions.

b. When the position an employee occupies changes from an unclassified position without a State salary range to become a classified position, the agency shall determine whether the new position has a higher, lower, or equivalent level of job duties or responsibilities than the former position. Based on that determination, the employee's status will be governed by Section 19-704.06 concerning the reclassification of positions.

19-705. CLASSIFIED EMPLOYEE PAY PLAN.

SCOPE AND PURPOSE

This Regulation governs the establishment, maintenance, and administration of the Pay Plan applicable to all positions in the classified service.

19-705.01. STATEMENTS OF POLICY.

A. The Department of Administration designates the State Human Resources Director to administer all Department of Administration policies and procedures relating to the Pay Plan.

B. The Division of State Human Resources (DSHR) shall establish and maintain a Pay Plan to consist of (1) the official classification listing, (2) the official pay bands, and (3) the Regulations and procedures governing the administration of the Pay Plan.

C. In an agency whose agency head is reviewed by the Agency Head Salary Commission, no employee may receive a salary in excess of 95% of the midpoint of the agency head's salary range or the agency head's actual salary, whichever is greater, except on approval of the State Fiscal Accountability Authority. Higher education technical colleges, colleges, and universities shall be exempt from this requirement.

D. The Division of State Human Resources is authorized to delegate to agencies by written agreement pay programs that are described in this Regulation. Agencies with a delegation agreement shall comply with all State and federal laws and regulations, Department of Administration policies and guidelines, and the provisions contained in the delegation agreement. The delegation agreement shall constitute a contractual relationship between DSHR and the requesting agency and may be terminated or altered at the discretion of DSHR.

E. When an employee moves from an unclassified position to a classified position, the employee's pay will be governed by the classified pay plan.

F. An agency requests for or implementation of an increase in salary shall be requested or implemented when sufficient funds are available. The State Human Resources Director may require submission of appropriate documentation attesting to the availability of funding.

G. The South Carolina Constitution prohibits an agency from granting extra compensation, fee, or allowance to any public officer, agent, servant, or contractor after services rendered, or contract made, nor authorize payment or part payment of any claim under any contract not authorized by law.

H. An agency shall maintain documentation appropriate for the administration of this Regulation.

I. Prior to implementation, agencies shall develop any written policies described in these Regulations to govern the administration of salary increases and decreases.

J. The State Human Resources Director shall have the authority to make exceptions to Section 19-705.

19-705.02. ADMINISTRATION OF THE PAY PLAN.

A. The Division of State Human Resources periodically shall conduct studies for the purpose of making recommendations that will maintain a competitive Pay Plan.

B. An employee shall be paid within the pay bands in accordance with the provisions of this Regulation.

C. An employee shall not be paid in excess of the maximum of the pay band for a class, unless such payment is authorized by this Regulation.

D. Any pay action which requires approval from DSHR must receive such approval prior to an agency effecting the action.

E. Prior to submission to DSHR for approval, the agency human resources shall review all proposed pay changes to determine that they are in compliance with the provisions of this Regulation.

19-705.03. HIRING SALARIES.

A. Hiring at the Minimum - An employee must be paid at least the minimum of the pay band for the class to which hired.

B. Hiring Above the Minimum

1. Exceptional Qualifications – If an individual is exceptionally qualified for the position, DSHR may authorize a salary for the individual at a rate above the minimum of the pay band for the class based on written justification submitted by the agency.

2. Special Hire Rate – Based on written justification submitted by the agency, the Division of State Human Resources may approve a special hire rate when experience has shown that recruitment of qualified applicants for selected positions in a class has not been possible at the minimum of the pay band.

19-705.04. SALARY INCREASES.

A. Agencies shall develop written policies to govern the administration of salary increases for employees.

B. Legislative Increase – General and Merit Increases shall be provided to employees in accordance with the provisions of the annual Appropriation Act.

C. In-Band Salary Increase - Written justification for awarding an in-band salary increase shall be maintained by the employing agency. An employee's salary may be increased within his current pay band for the following reasons:

1. Performance Increase – An agency may increase an employee's salary based upon performance in accordance with § 8-1-160 of the South Carolina Code of Laws. Such increase shall be determined by the agency. A performance increase shall not place an employee's salary above the maximum of the pay band.

2. Additional Skills or Knowledge Increase - An in-band increase may be granted when an employee gains additional skills or knowledge directly related to the job. An employee's salary may be increased by up to 15%

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for the acquisition of additional skills or knowledge, provided such increase does not place the employee's salary above the maximum of the pay band. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

3. Additional Job Duties or Responsibilities Increase - An in-band increase may be granted when an employee is assigned additional job duties or broader responsibilities, either within his current position or as a reassignment to another position in the same pay band in the employing agency. An employee's salary may be increased by up to 15% for the recognition of the additional job duties or responsibilities, provided such increase does not place the employee's salary above the maximum of the pay band. For an increase of more than 15%, the agency must submit written justification to DSHR for approval. Should the additional job duties or responsibilities be removed from the employee within six months of the date that the salary increase was awarded, the salary may be reduced by up to the amount of the additional job duties or responsibilities increase. *(For removal of additional job duties or responsibilities, refer to Section 19-705.05 B. 2.)*

4. Transfer Increase - An in-band increase may be granted when an employee accepts a position within another agency which is in the same pay band as his current position. An employee's salary may be increased by up to 15% for the recognition of a transfer, provided such increase does not place the employee's salary above the maximum of the pay band.

5. Retention Increase - An in-band increase may be granted when an employee has a bona fide job offer from another employer, either within or outside of State government, and an agency wishes to retain the services of this employee in his current position. An employee's salary may be increased by up to 15% for the purpose of retention, provided such increase does not place the employee's salary above the maximum of the pay band. For an increase of more than 15% for employees who have bona fide job offers outside of State government, the agency must submit written justification to DSHR for approval. An employee shall receive no more than one retention increase in a one-year period.

D. Salary Increases Resulting from Upward Band Changes - An employee's salary may be increased as a result of movement to a higher pay band for the following reasons:

1. Promotional Increase

a. Upon promotion, the employee must be paid at least the minimum of the pay band of the class to which promoted.

b. Upon promotion, an employee's salary may be increased by up to 15% of his salary prior to promotion, or to the midpoint of the new pay band, whichever is greater. For an increase of more than 15% and above the midpoint of the pay band, the agency must submit written justification to DSHR for approval. Such increase shall not place the employee's salary above the maximum of the new pay band.

2. Reclassification Increase

a. When an employee's position is reclassified to a class with a higher pay band, the employee's salary shall be increased to at least the minimum of the pay band of the class to which reclassified.

b. Upon reclassification, an employee's salary may be increased by up to 15% of the salary prior to reclassification, provided such increase does not place the employee's salary above the maximum of the new pay band. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

3. Reallocation Increase - When DSHR reallocates a class to a higher pay band:

a. An employee in that class shall receive a salary increase at least to the new minimum of the new pay band; or

b. An employee in that class may receive up to a 15% salary adjustment provided such increase does not place an employee's salary above the maximum of the new pay band.

E. An employee is not eligible to receive a salary increase upon downward reclassification or demotion.

F. Return from Leave Without Pay - An employee who has returned from an authorized leave of absence without pay shall be paid at the same rate being paid at the time leave was granted, except that the employee shall be granted any legislative increases authorized during the employee's leave of absence. In determining the amount of adjustment that the employee shall be granted, the same implementation instructions that applied to all employees in that class shall be followed.

19-705.05. SALARY DECREASES.

A. Agencies shall develop written policies to govern the administration of salary decreases for employees.

B. In-Band Salary Decreases - Written justification for effecting any salary decrease shall be maintained by the employing agency. An employee's salary may be decreased within his current pay band for the following reasons:

1. Performance Decrease – An agency may decrease an employee's salary based upon performance in accordance with § 8-1-160 of the South Carolina Code of Laws. Such decrease shall be determined by the agency. Performance decreases must not place an employee's salary below the minimum of the pay band. Performance decreases must be based on the results of an Employee Performance Management System (EPMS) evaluation.

2. Removal of Additional Job Duties or Responsibilities

Should the additional job duties or responsibilities which justified an additional job duties or responsibilities increase be removed from an employee within six months of the date that the salary increase was awarded or prior to the end of the trial period, the salary may be reduced by up to the amount of additional job duties or responsibilities increase. Such decrease in salary is not grievable or appealable under the State Employee Grievance Procedure Act.

3. Assignment of Lower Level Responsibilities

a. Voluntary Reason - An employee who is voluntarily assigned lower level responsibilities or moved to a position in his current pay band with lower level responsibilities than his current position, may, at the discretion of the agency head or his designee, be paid at any rate within the pay band provided the rate is equal to or below the current salary and provided the employee signs a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

b. Involuntary Reason – A covered employee who is involuntarily assigned lower level responsibilities or moved to a position in his current pay band with lower level responsibilities than his current position, shall not have his salary reduced for a period of six months from the date of the action unless an exception is approved by the Department of Administration or his designee. After the expiration of the six-month period, with the approval of the agency head, or his designee, the employee's salary may be reduced no more than 15% or to the midpoint of the pay band, whichever is lower. An employee exempt from the State Employee Grievance Procedure Act, who is involuntarily assigned lower level responsibilities, may have his salary reduced no more than 15% or to the midpoint of the pay band, whichever is lower, immediately following the assignment of lower level responsibilities.

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If the employee's salary is allowed to remain above the maximum of the pay band, the employee shall not be eligible for pay increases unless:

(1) Subsequent pay adjustments establish the maximum of the pay band above the employee's rate of pay; or

(2) The employee is subsequently promoted or his position is reclassified and his current rate of pay is below the maximum for the pay band for the class to which promoted or reclassified.

C. Salary Decreases Resulting from Downward Band Changes - Written justification for effecting any salary decrease shall be maintained by the employing agency. An employee's salary may be decreased as a result of movement to a lower pay band for the following reasons:

1. Demotion and Downward Reclassification Decreases

a. Voluntary Reason - An employee who voluntarily has his position reclassified to a class with a lower pay band or is demoted to a position in a lower pay band, may, at the discretion of the agency head or his designee, be paid at a salary equal to or below the current salary. However, the rate must be within the lower pay band and the employee must sign a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

b. Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or unsatisfactory rating on an EPMS evaluation, has his position reclassified to a class with a lower pay band or is demoted to a position in a lower pay band, may, at the discretion of the agency head, be paid at a rate equal to or below the current salary, but within the lower pay band.

c. Involuntary or Non-Disciplinary Reason – When a covered employee is demoted due to involuntary or non-disciplinary reasons or when an occupied position is reclassified to a class in a lower pay band for these reasons, the employee's salary shall not be reduced for a period of six months from the date of the demotion or downward reclassification unless an exception is approved by the Department of Administration. After the expiration of the six-month period, with the approval of the agency head or his designee, the employee's salary may be reduced no more than 15% or to the midpoint of the pay band, whichever is lower. An employee exempt from the State Employee Grievance Procedure Act, who is involuntarily demoted or downwardly reclassified may have his salary reduced no more than 15% or to the midpoint of the pay band, whichever is lower, immediately following the demotion or downward reclassification.

If the employee's salary is allowed to remain above the maximum of the lower pay band, the employee shall not be eligible for pay increases unless:

(1) Subsequent pay adjustments establish the maximum of the pay band above the employee's rate of pay; or

(2) The employee is subsequently promoted or his position is reclassified and his current rate of pay is below the maximum for the pay band for the class to which promoted or reclassified.

d. An employee who is promoted or his position is reclassified upward, and subsequently demoted or his position is reclassified downward prior to attaining permanent status in a class of a higher pay band, shall have a reduction in pay as follows:

(1) When an employee is demoted or his position is reclassified to the previous class or to a class with the same pay band held prior to promotion or reclassification, or to a class with a lower pay band, the employee's salary will be reduced by the amount previously received upon promotion or upward reclassification provided

the salary will not exceed the maximum of the pay band for the class to which demoted or downwardly reclassified.

(2) When an employee is demoted or his position is reclassified downward to a class having a higher pay band than the original position, the employee's salary will be reduced by the amount previously received upon promotion or reclassification and the employee's new salary will be established in accordance with Section 19-705.04 D.

2. Downward Band Reallocation

When a class is reallocated to a lower pay band, the pay of an employee shall not be changed as a result of this action for a period of six months from the date of the action unless an exception is approved by the Department of Administration. After the expiration of the six-month period, with the approval of the agency head, the employee's salary may be reduced no more than 15% or to the midpoint of the pay band, whichever is lower. If the employee's salary exceeds the maximum of the new pay band, the employee shall not be eligible for pay increases of any type unless:

a. Subsequent pay adjustments establish the maximum of the pay band above the employee's rate of pay; or

b. The employee is subsequently promoted or his position is reclassified, and his current rate of pay is below the maximum of the pay band for the class to which promoted or reclassified.

19-705.06. SPECIAL SALARY ADJUSTMENTS.

The State Human Resources Director is authorized to approve pay actions outside the provisions of Section 19-705.04 and 19-705.05 if circumstances warrant such approval.

19-705.07. COMPENSATION NOT INCLUDED IN BASE SALARY.

A. Temporary Salary Adjustment – The Division of State Human Resources is authorized to approve a temporary salary adjustment for an employee in a full-time equivalent (FTE) position if circumstances warrant such approval. The temporary salary adjustment must be removed when the circumstances that warranted such an increase are no longer present.

B. Shift Differential Pay - The Division of State Human Resources may approve the additional payment of a shift differential for classifications of employees in the entire agency or any portion of the agency assigned to an evening, night, weekend, rotating, or split shift. To qualify the shift for approval, the majority of hours of the shift must be outside the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. The employee's pay shall be adjusted by the amount approved, even if such amount increases the employee's salary above the maximum of the pay band for the class.

C. On-Call Pay - On-call pay is pay by the employing agency for classifications of employees in the entire agency or any portion of the agency to remain available to return to work within a specified period of time. The Division of State Human Resources must approve on-call pay for employees.

D. Call Back Pay - Call back pay is pay by the employing agency for an employee to report to work either before or after normal duty hours to perform emergency services. Each agency shall determine which groups of employees shall be subject to call back. Nonexempt employees shall be compensated for hours worked as a result of a call back at their regular hourly rate plus any shift differential for which they might be eligible and such time shall be counted in computing any overtime that may be due. When an employee to be called back for

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emergency services which require less than two hours on the job, or when no work is available when he reports, the employee shall be compensated a minimum of two hours. An employee shall not receive call back pay if:

1. The call back has been canceled and the employee received notice in advance not to report to work, or
2. The employee refuses alternate work that is offered upon reporting to work.

E. Special Assignment Pay – The Division of State Human Resources may approve additional compensation to classifications of employees in the entire agency or any portion of the agency for periods of time when he is on special assignment if circumstances warrant such approval based on guidelines established by DSHR.

F. Market or Geographic Differential Pay - The Division of State Human Resources may approve Market or Geographic Differential Pay for classifications of employees in the entire agency or any portion of the agency for periods of time when circumstances warrant such approval.

G. Bonuses – The General Assembly has authorized various programs through which agencies may award bonuses to employees. Agencies shall comply with guidelines established by the Department of Administration in the administration of bonus programs.

H. Longevity Pay

The Longevity Salary Increase Program was discontinued in 1986. Individuals awarded longevity increases prior to the discontinuance of the program will continue to receive such previously awarded increases until termination of employment with State government. To calculate a salary increase for an employee who is presently receiving longevity pay, an agency shall:

1. Deduct the longevity increase from the total compensation;
2. Calculate the increase on the reduced salary in accordance with applicable provisions of Section 19-705.03; and
3. Add the longevity increase to the new salary.

I. Grant Salary Adjustment - The Division of State Human Resources is authorized to approve a grant salary adjustment for an employee in an FTE position if circumstances warrant such approval. The grant salary adjustment must be removed when the circumstances that warranted such an increase are no longer present.

19-705.08. EFFECTIVE DATES OF SALARY CHANGES.

A. The effective date of all salary changes provided in this Regulation shall be no earlier than the date the action is approved by the appropriate authority.

B. Retroactivity

Agencies must comply with Article III, § 30 of the South Carolina Constitution regarding retroactivity.

C. Concurrent Increases

1. When general increases and other salary increases are awarded on the same date, the general increase shall be applied prior to any other salary increases.

2. When performance pay increases under § 8-11-940 of the South Carolina Code of Laws and salary increases other than general increases are awarded on the same date, the performance pay increases shall be applied prior to any other salary increases.

19-706. ESTABLISHMENT OF UNCLASSIFIED POSITIONS AND THE UNCLASSIFIED EMPLOYEE PAY PLAN.

SCOPE AND PURPOSE

This Regulation governs the establishment, maintenance, and administration of the Unclassified Pay Plan applicable to all unclassified positions, except athletics coaches and unclassified employees in the athletics department of post secondary educational institutions as defined in § 59-107-10 of the South Carolina Code of Laws except the technical education colleges.

19-706.01. CATEGORIES OF UNCLASSIFIED POSITIONS.

A. An unclassified position is a full-time equivalent (FTE) position that has been assigned to an unclassified State title and falls under one of the following categories: 1) agency head covered by the Agency Head Salary Commission, 2) Executive Compensation System, 3) academic personnel, or 4) unclassified other.

B. The compensation of agency heads covered by the Agency Head Salary Commission is addressed in Section 19-706.04 A.

C. The compensation of employees in positions covered by the Executive Compensation System is governed by Section 19-706.04 B.

D. Academic personnel are defined by § 8-11-220 of the South Carolina Code of Laws as “presidents, provosts, vice presidents, deans, teaching and research staffs, and others of academic rank employed by the State educational institutions of higher learning, or medical institutions of education and research.” The compensation of employees in positions in the category of academic personnel is governed by Section 19-706.04 C. Presidents who are covered by the Agency Head Salary Commission are not subject to the Regulations pertaining to academic personnel.

E. Positions in the category of Unclassified Other include:

1. Agency heads not covered by the Agency Head Salary Commission;
2. Staff of the Governor’s office;
3. Teachers;
4. Such other personnel employed by the institutions of higher learning and/or medical institutions of education and research as are recommended by the respective governing bodies and approved by the Department of Administration;
5. Other positions as the General Assembly may elect to exempt.

The compensation of employees in positions in the category of Unclassified Other is governed by Section 19-706.04 D.

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19-706.02. STATEMENTS OF POLICY.

A. The Department of Administration designates the State Human Resources Director to administer all Department of Administration policies and procedures relating to the unclassified State titles and compensation of employees in unclassified positions.

B. The Division of State Human Resources shall develop and maintain a position numbering system that will identify each unclassified position.

C. In an agency whose agency head is reviewed by the Agency Head Salary Commission, no employee may receive a salary in excess of 95% of the midpoint of the agency head's salary range or the agency head's actual salary, whichever is greater, except on approval of the State Fiscal Accountability Authority. Higher education technical colleges, colleges, and universities shall be exempt from this requirement.

D. All pay actions which require approval from DSHR must receive such approval prior to an agency effecting the actions.

E. The South Carolina Constitution prohibits an agency from granting extra compensation, fee, or allowance to any public officer, agent, servant, or contractor after services rendered, or contract made, nor authorize payment or part payment of any claim under any contract not authorized by law.

F. All employees in unclassified positions with State salary ranges shall be paid within their respective range and the provisions of Section 19-706.

G. An employee who has returned from an authorized leave of absence without pay shall be paid at the same rate being paid at the time leave was granted, except that the employee may be granted any legislative increases made during the employee's absence. In determining the amount of adjustment that the employee may be granted, the same implementation instructions that applied to all other employees in the same unclassified category shall be followed.

H. A position may move between the classified and unclassified systems provided the agency does not exceed its respective number of classified and unclassified authorized FTEs. (*Refer to Section 19-704.08.*)

I. When an employee moves from a classified position to an unclassified position, the employee's pay will be governed by the unclassified pay plan.

J. The Division of State Human Resources is authorized to delegate to agencies by written agreement the establishment of unclassified positions within authorized limits and changes to the unclassified State title. Agencies with a delegation agreement shall comply with State and federal laws and regulations, Department of Administration policies and guidelines, and the provisions contained in delegation agreement. The delegation agreement shall constitute a contractual relationship between DSHR and the requesting agency and may be terminated or altered at the discretion of DSHR.

K. An agency's requests for or implementation of an increase in salary shall be requested or implemented when sufficient funds are available. The State Human Resources Director may require submission of appropriate documentation attesting to the availability of funding.

L. An agency shall maintain documentation appropriate for administration of these Regulations.

M. Prior to implementation, agencies shall develop any written policies described in these Regulations to govern the administration of salary increases and decreases.

N. The State Human Resources Director shall have the authority to make exceptions to Section 19-706.

19-706.03. ADMINISTRATION OF THE PAY PLAN.

A. The Division of State Human Resources will coordinate with agencies to develop, implement, and maintain unclassified State titles which appropriately identify and distinguish between unclassified positions.

B. An unclassified position should be authorized by the General Assembly and established by DSHR. When establishing an unclassified position, DSHR assigns a position number, unclassified State title and code, slot number, and State salary range, if applicable.

C. The Division of State Human Resources has the authority to designate a classified position as unclassified for purposes of initially placing positions in the Executive Compensation System.

D. The Division of State Human Resources may, as appropriate, conduct studies of unclassified positions with State salary ranges for the purpose of making recommendations that will maintain a competitive pay plan.

E. The State Human Resources Director is authorized to approve pay actions outside the provisions of Section 19-706 for employees other than agency heads if circumstances warrant such approval.

19-706.04. HIRING SALARIES, SALARY INCREASES, AND SALARY DECREASES FOR EMPLOYEES IN UNCLASSIFIED POSITIONS.

A. Agency Heads Covered by the Agency Head Salary Commission

The compensation of agency heads covered by the Agency Head Salary Commission is governed by the Commission and the State Fiscal Accountability Authority.

B. Executive Compensation System

1. Hiring Salaries for Employees in the Executive Compensation System

a. Hiring at the Minimum - An employee must be paid at least the minimum of the State salary range for the position.

b. Hiring Above the Minimum – An employee may be hired at a salary up to the midpoint of the State salary range for the position if circumstances warrant such approval. The Department of Administration may authorize payment of a salary above the midpoint of the State salary range for the position based on written justification submitted by the agency.

c. Entry into the Executive Compensation System - Upon movement into the new position, the employee is eligible for up to a 15% salary increase or up to the midpoint of the State salary range for the new position, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range. The Department of Administration may authorize exceptions based on written justification submitted by the agency.

2. Salary Increases for Employees in the Executive Compensation System

a. Written justification for awarding salary increases shall be maintained by the agency.

b. In-Range Increases

(1) Legislative Increase – An annual pay increase shall be provided to the Executive Compensation System employees in accordance with the provisions of the annual Appropriation Act.

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(2) Performance Increase - An agency may increase an employee's salary based upon performance in accordance with § 8-1-160 of the South Carolina Code of Laws. Such an increase shall be determined by the agency. A performance increase shall not place an employee's salary above the maximum of the State salary range.

c. Salary Increases Upon Promotion

(1) Upon promotion, an employee's salary must be at least the minimum of the State salary range for the position to which promoted.

(2) Upon promotion an employee's salary may be increased up to 15% or up to the midpoint of the State salary range for the position to which promoted, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range. The Department of Administration may authorize exceptions based on written justification submitted by the agency.

d. Salary Increases Upon Upward Reevaluation

(1) When an occupied position is reevaluated and is assigned a higher State salary range, the employee's salary must be at least the minimum of the new State salary range.

(2) Upon an upward reevaluation, an employee's salary may be increased up to 15% or up to the midpoint of the State salary range, whichever is greater. Such increase shall not place the employee's salary above the maximum of the new State salary range.

3. Salary Decreases for Employees in the Executive Compensation System

a. Written justification for effecting any salary decrease shall be maintained by the agency.

b. Performance Decrease – An agency may decrease an employee's salary based upon performance in accordance with § 8-1-160 of the South Carolina Code of Laws. Performance decreases may not place an employee's salary below the minimum of the State salary range. Performance decreases must be based on the results of an Employee Performance Management System (EPMS) evaluation, and the salary decrease shall be determined by the agency.

c. Salary Decreases Upon Demotion or Downward Reevaluation

(1) Voluntary Reason - An employee, who is voluntarily demoted to a position with a lower State salary range or who voluntarily has his position reevaluated to a lower State salary range, may at the discretion of the agency head or his designee, be paid at any salary equal to or below the current salary. However, the salary must be within the lower State salary range, and the employee must sign a written statement indicating agreement to the salary decrease. The signed document with justification should be maintained by the agency.

(2) Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or an unsatisfactory rating on an EPMS evaluation, has his position reevaluated to a lower State salary range or is demoted to a position with a lower State salary range, may, at the discretion of the agency head, be paid at any salary within the lower State salary range provided the salary is equal to or below the current salary, but must be within the lower State salary range.

(3) Involuntary or Non-Disciplinary Reason - When a covered employee is demoted due to involuntary or non-disciplinary reasons or when an occupied position is reevaluated to a lower State salary range for these reasons, the employee's salary shall not be reduced for a period of six months from the date of the demotion or downward reevaluation unless an exception is approved by the Department of Administration. After the expiration of the six-month period, with the approval of the agency head or his designee, the employee's

salary may be reduced no more than 15% or to the midpoint of the State salary range, whichever is lower. An employee exempt from the State Employee Grievance Procedure Act, who is involuntarily demoted or whose position is downwardly reevaluated may have his salary reduced no more than 15% or to the midpoint of the pay State salary range, whichever is lower, immediately following the demotion or downward reevaluation.

If the employee's salary is allowed to remain above the maximum of the lower State salary range for the position, the employee shall not be eligible for pay increases unless:

(a) Subsequent pay adjustments establish the maximum of the State salary range above the employee's rate of pay; or

(b) The employee is subsequently promoted or his position is reevaluated and his current salary is below the maximum of the State salary range for the position.

C. Academic Personnel

1. Hiring Salaries for Employees in the Category of Academic Personnel

Agencies may determine hiring salaries for unclassified employees in the category of academic personnel. Agencies should consider comparable positions and market data for the occupational area when setting initial hiring salaries for employees in this category.

2. Salary Increases for Employees in the Category of Academic Personnel

a. Agencies shall develop written policies to govern the administration of salary increases for academic personnel in unclassified positions. Written justification for awarding salary increases shall be maintained by the agency.

b. A legislative increase shall be provided to academic personnel in accordance with the provisions of the annual Appropriation Act.

c. Agencies may award a salary increase of up to 15% for any of the reasons listed below. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

(1) The acquisition of additional skills or knowledge directly related to the job;

(2) The assignment of additional job duties or responsibilities;

(3) The retention of an employee who has a bona fide job offer from an employer, either within or outside of State government. For an increase of more than 15%, the employee must have a bona fide job offer outside of State government and the request must be submitted to DSHR for approval. An employee shall receive no more than one retention increase in a one-year period;

(4) The need to address internal equity or equity with the external market;

(5) Promotion to a higher level position - The agency shall determine whether the new position has a higher level of job duties or responsibilities than the former position; or

(6) Assignment of higher level job duties or responsibilities as defined by the agency which results in a change in unclassified State title.

d. As provided in an agency's faculty promotion policy, the agency may develop policies for rank promotions for faculty. Such increases shall be determined by the agency.

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e. A performance increase may be awarded to an employee in accordance with § 8-1-160 of the South Carolina Code of Laws. Such increases shall be determined by the agency.

3. Demotions and Salary Decreases for Employees in the Category of Academic Personnel

Agencies shall develop written policies to govern the administration of salary decreases for academic personnel. Written justification for effecting any salary decrease shall be maintained by the agency.

a. Performance or Disciplinary Decrease – An agency may decrease an employee’s salary based upon performance or disciplinary reasons. Performance decreases should be based on the results of a performance evaluation. Any salary decrease shall be determined by the agency.

b. Removal of Additional Job Duties or Responsibilities - Should the additional job duties or responsibilities which justified an additional job duties or responsibilities increase be removed from an employee within six months of the date that the salary increase was awarded, the salary may be reduced by up to the amount of additional job duties or responsibilities increase. For academic personnel covered by the State Employee Grievance Procedure Act, this decrease in salary is not grievable or appealable if the removal of the duties and subsequent salary decrease occur within six months of the date the salary increase was awarded. (Refer to Section 19-718.)

c. Demotion and Assignment of Lower Level Responsibilities

(1) Voluntary Reason - An employee, who is voluntarily demoted or is voluntarily assigned to lower level responsibilities within his current position, may be paid at a rate which is agreed upon by the employee and the agency provided the employee signs a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

(2) Involuntary Reason –

(a) Academic Personnel Covered by the State Employee Grievance Procedure Act

i. Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or unsatisfactory rating on a performance evaluation, is demoted or assigned lower level responsibilities, shall not have his salary reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to DSHR for approval.

ii. An employee, who is involuntarily demoted or assigned lower level responsibilities, shall not have his salary reduced for a period of six months from the date of the action unless an exception is approved by the Department of Administration. After the expiration of the six-month period, with the approval of the agency head, the employee's salary may not be reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to DSHR for approval.

(b) Academic Personnel Exempt from the State Employee Grievance Procedure Act

An employee, who is involuntarily demoted or assigned lower level responsibilities, shall not have his salary reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to DSHR for approval.

4. Administrative Salary Adjustment

Institutions of higher learning may award administrative salary adjustments to unclassified academic personnel during periods of time when they are assigned additional administrative responsibilities related to their role as Dean, Assistant Dean, Associate Dean, or Department Chairman. Administrative salary adjustments are not considered part of the employee's base salary. An agency may award an administrative salary adjustment of

up to 15%. For an increase of more than 15% or for an increase related to administrative responsibilities other than those listed above, the agency must submit written justification to DSHR for approval.

5. Summer Employment for Academic Personnel of State Institutions of Higher Learning

a. Summer employment is not considered dual employment, which covers additional compensation earned during an employee's base period of employment. Therefore, summer employment may occur over any specified period of time between May and September of a calendar year.

b. All institutions of higher learning should develop policies and procedures for governing academic personnel who are teaching summer sessions outside of their base period of employment. Institutions of higher learning should consider comparable positions and market data for the occupational area when determining compensation for summer teaching. The rate of pay should be comparable to the preceding academic year and may not exceed 40% of the employee's annualized salary. Written justification for any exceptions should be submitted to DSHR for approval.

c. Academic personnel shall be compensated at the same rate of pay as the immediately preceding academic year for sponsored research or other activities performed during the summer months (between academic years) which are not related to a regular summer session.

d. Institutions of higher learning shall maintain records of all agreements pertaining to summer employment.

D. Unclassified Other

1. Unclassified Other (Agency Heads Not Covered By the Agency Head Salary Commission)

Agency heads not covered by the Agency Head Salary Commission shall have their salary established in accordance with relevant legislation.

2. Unclassified Other (Teachers)

Agencies shall pay all teachers the appropriate salary and any increases provided by the salary schedule of the school district in which the agency is located.

3. Unclassified Other (Non-Teachers)

a. Hiring Salaries for Employees in the Category of Unclassified Other (Non-Teachers)

Agencies may determine hiring salaries for employees in the category of unclassified other (non-teachers). Agencies should consider comparable positions and market data for the occupational area when setting hiring salaries for employees in these unclassified positions.

b. Salary Increases for Employees in the Category of Unclassified Other (Non-Teachers)

(1) Written justification for awarding salary increases shall be maintained by the agency.

(2) A legislative increase shall be provided to employees in the category of unclassified other (non-teachers) in accordance with the provisions of the annual Appropriation Act.

(3) Agencies may award a salary increase of up to 15% for any of the reasons listed below. For an increase of more than 15%, the agency must submit written justification to DSHR for approval.

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(a) The acquisition of additional skills or knowledge directly related to the job;

(b) The assignment of additional job duties or responsibilities;

(c) The retention of an employee who has a bona fide job offer from an employer, either within or outside of State government. For an increase of more than 15%, the employee must have a bona fide job offer outside of State government and the request must be submitted to DSHR for approval. An employee shall receive no more than one retention increase in a one-year period;

(d) The need to address internal equity or equity with the external market;

(e) Promotion to a higher level position. The agency shall determine whether the new position has a higher level of job duties or responsibilities than the former position; or

(f) Assignment of higher level job duties or responsibilities which results in a change in unclassified State title.

(4) A performance increase may be awarded to an employee in accordance with § 8-1-160 of the South Carolina Code of Laws. Such increases shall be determined by the agency.

c. Demotions and Salary Decreases for Employees in the Category of Unclassified Other (Non-Teachers)

Agencies shall develop written policies to govern the administration of salary decreases for employees in the category of unclassified other (non-teachers). Written justification for effecting any salary decrease shall be maintained by the agency.

(1) Performance Decrease – An agency may decrease an employee’s salary based upon performance in accordance with § 8-1-160 of the South Carolina Code of Laws. Performance decreases must be based on the results of an Employee Performance Management System (EPMS) evaluation, and the salary decrease shall be determined by the agency.

(2) Removal of Additional Job Duties or Responsibilities - Should the additional job duties or responsibilities which justified an additional job duties or responsibilities increase be removed from an employee within six months of the date that the salary increase was awarded or prior to the end of the trial period, the salary may be reduced by up to the amount of additional job duties or responsibilities increase. Such decrease in salary is not grievable or appealable under the State Employee Grievance Procedure Act.

(3) Demotion or Assignment of Lower Level Responsibilities

(a) Voluntary Reason - An employee, who is demoted or is voluntarily assigned to lower level responsibilities within his current position, may be paid at a rate which is agreed upon by the employee and the agency provided the employee signs a written statement indicating agreement to the salary decrease. The signed document should be maintained by the agency.

(b) Involuntary Reason –

i. Disciplinary or Performance Reason - An employee who, as the result of a disciplinary action or unsatisfactory rating on an EPMS evaluation, is demoted or assigned lower level responsibilities, shall not have his salary reduced by more than 15%. For a decrease of more than 15%, the agency must submit written justification to DSHR for approval.

ii. A covered employee, who is involuntarily demoted or assigned lower level responsibilities, shall not have his salary reduced for a period of six months from the date of the action unless an exception is

approved by the Department of Administration. After the expiration of the six-month period, with the approval of the agency head or his designee, the employee's salary may not be reduced by more than 15%. An employee exempt from the State Employee Grievance Procedure Act, who is demoted or involuntarily assigned lower level responsibilities, shall not have his salary reduced by more than 15% immediately following the demotion or assignment of lower level responsibilities.

For a decrease of more than 15%, the agency must submit written justification to DSHR for approval.

19-706.05. COMPENSATION NOT INCLUDED IN BASE SALARY.

A. Temporary Salary Adjustment – The Division of State Human Resources is authorized to approve a temporary salary adjustment for an employee in an FTE position if circumstances warrant such approval. The temporary salary adjustment must be removed when the circumstances that warranted such an increase are no longer present.

B. Bonuses – The General Assembly has authorized various programs through which agencies may award bonuses to employees. Agencies shall comply with guidelines established by the Department of Administration in the administration of bonus programs.

C. Grant Salary Adjustment – The Division of State Human Resources is authorized to approve a grant salary adjustment for an employee in an FTE position if circumstances warrant such approval. The grant salary adjustment must be removed when the circumstances that warranted such an increase are no longer present.

D. Special Assignment Pay – The Division of State Human Resources may approve additional compensation to classifications of employees in the entire agency or any portion of the agency for periods of time when he is on special assignment if circumstances warrant such approval based on guidelines established by DSHR

19-706.06. EFFECTIVE DATES OF SALARY CHANGES.

A. The effective date of all salary changes provided in Sections 19-706.04 and 19-706.05 shall be no earlier than the date the action is approved by the appropriate authority.

B. Retroactivity

Agencies must comply with constitutional provisions regarding retroactivity.

C. Concurrent Increases

When general increases and other salary increases are awarded on the same date, the general increase shall be applied prior to any other salary increases.

19-707. HOURS OF WORK AND OVERTIME.

SCOPE AND PURPOSE

This Regulation governs the hours of work and overtime policies for employees.

19-707.01. HOURS OF WORK.

A. No agency shall have less than a 37.5-hour workweek. Generally, the core hours that an agency shall remain open for business are 8:30 a.m. to 5:00 p.m., Monday through Friday.

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B. The minimum full-time workweek for employees of agencies is 37.5 hours. The agency may vary an employee's work schedule through the use of alternative scheduling strategies including telecommuting to meet the needs and service delivery requirements of the agency.

C. The agency may require an employee to work additional hours when responsibilities of the agency cannot be accomplished in the normal work hours observed by the agency.

D. Each agency is required to keep an accurate record of all employee's scheduled hours of work and leave taken. Leave shall be recorded in the appropriate categories and shown as either leave with or without pay. The agency head has the ultimate responsibility for the accuracy and proper maintenance of hours of work and leave records.

19-707.02. OVERTIME - COMPENSATORY TIME

A. The Division of State Human Resources (DSHR) develops an overtime model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's overtime policy.

B. Each agency shall develop an overtime policy and establish procedures that will ensure compliance with federal and state laws, including the Fair Labor Standards Act (FLSA).

C. By interpretation of the United States Department of Labor, the State is considered to be one employer for the purposes of applying FLSA.

D. For overtime purposes the two categories of employees are: (a) nonexempt (overtime provisions of FLSA do apply) and (b) exempt (overtime provisions of FLSA do not apply). The exempt or nonexempt status of any employee must be determined by the agency based on the provisions of FLSA. It is the responsibility of the agency head or his designee to determine whether an exemption is applicable to a particular employee.

E. Workweek is seven consecutive 24-hour periods, i.e., 168 consecutive hours designated by the employing agency.

Exception - In the case of law enforcement personnel or fire protection and emergency medical personnel, these categories of employees have work schedules up to 28 consecutive 24-hour periods, i.e., 672 consecutive hours designated by the employing agency.

F. Hours worked are all hours that an employee is permitted to work for the employing agency. Hours worked include time during which an employee is necessarily required to be on the employing agency's premises, on duty, or at a prescribed work place. Hours worked do not include leave with or without pay or holidays when an employee does not actually work.

G. Overtime is actual hours worked in excess of 40 hours in a given seven consecutive day period as determined by the employing agency. The Fair Labor Standards Act contains special provisions for determining when overtime is earned by employees in certain job categories. These categories include:

1. Fire protection and emergency medical personnel;
2. Law enforcement (including security personnel in correctional institutions);
3. Hospitals or institutions primarily engaged in the care of the sick, the aged, the mentally ill, or the disabled that reside on the premises; and
4. Employees who are compensated for overtime using the fluctuating workweek method of payment for overtime as defined by FLSA which must be approved by DSHR prior to implementation.

H. Generally, a nonexempt employee should not incur overtime; however, overtime may be permitted when authorized by the agency.

I. Compensatory time is an acceptable alternative to overtime compensation for employees.

1. Upon separation from employment, nonexempt employees shall be paid for unused compensatory time, and exempt employees shall not be paid for unused compensatory time. Nonexempt employees shall be paid out for any unused compensatory time prior to transferring to another agency.

2. Upon separation from employment, nonexempt employees shall be paid for unused compensatory time at a rate of compensation not less than the higher of:

a. The average regular rate received by such employee during the last three years of the employee's employment, or

b. The final regular rate received by such employee.

J. Nonexempt Employee Procedures

1. Payment for Overtime

Nonexempt employees shall either be paid or given compensatory time for hours worked in excess of 40 hours in a given work period of seven consecutive days. For hours worked in excess of 40 in an established workweek of seven consecutive days, payment for overtime or the accrual of compensatory time shall be at the rate of time and one-half the employee's regular rate, computed on the basis of a 40-hour workweek. (*Refer to Exceptions in Section 19-707.02 G.*)

2. Compensatory Time

a. A nonexempt employee engaged in public safety work, emergency response work, or seasonal work may not accumulate more than 480 hours of compensatory time. Any employee who has accumulated 480 hours of compensatory time shall be paid overtime for additional hours of work.

b. A nonexempt employee engaged in work other than public safety work, emergency response work, or seasonal work, may not accumulate more than 240 hours of compensatory time. Any employee who has accumulated 240 hours of compensatory time shall be paid overtime for additional hours of work.

3. Recordkeeping for Nonexempt Employees

Each agency must maintain the following information for nonexempt employees.

a. Name;

b. Home address;

c. Date of birth if under 19 years of age;

d. Gender and occupation;

e. Employee workweek, including time of day and day of week on which the employee's workweek begins;

f. Regular hourly rate of pay for any week when overtime is worked and overtime pay is due;

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g. Hours worked each workday and total hours worked each week;

h. Total daily or weekly straight-time wages for all hours worked;

i. Total overtime excess compensation for the workweek;

j. Total additions or deductions from wages each pay period;

k. Total wages paid each pay period;

l. Date of payment and pay period covered;

m. The number of hours of compensatory time earned each workweek, or other applicable work period, by each employee at the rate of 1 1/2 hours for each overtime hour worked;

n. The number of hours of such compensatory time used each workweek or other applicable work period by each employee; and

o. The number of hours of compensatory time compensated in cash, the total amount paid, and the date of such payment.

K. Exempt Employee Procedures

1. No Payment for Overtime

Exempt employees shall not be paid overtime.

2. Compensatory Time

If allowed by an agency's overtime policy, exempt employees may receive compensatory time for hours worked in excess of 40 in the workweek. If granted, compensatory time must not be at a rate greater than one hour of compensatory time for each hour worked in excess of 40 in the workweek. Under no circumstances shall an exempt employee accumulate more compensatory time than FLSA allows for a nonexempt employee.

L. Employment at More Than One State Agency

When a nonexempt employee is employed at more than one State agency, each employing agency shall calculate separately the hours worked by the employee. By interpretation of the United States Department of Labor, the State is considered to be one employer for the purpose of applying FLSA; therefore, the agencies where the individual is employed should jointly determine whether such a nonexempt employee is owed any overtime compensation during a workweek. (*For information on dual employment, refer to Section 19-713.*)

M. Volunteers

Time spent as a volunteer is not included in hours worked. An employee may volunteer services for an agency or a political subdivision of the State, if a) the individual does not receive compensation, paid expenses, benefits, or a nominal fee for services for which the individual volunteered, and b) such services are not the same type of services which the individual is employed to perform for such public agency. An employee of a public agency which is a state, political subdivision of a state, or an interstate governmental agency may volunteer services for any other state, political subdivision, or interstate governmental agency including a state, political subdivision or interstate governmental agency with which the employing agency has a mutual aid agreement.

19-708. HOLIDAYS.**SCOPE AND PURPOSE**

This Regulation governs the observance of holidays by employees in full-time equivalent (FTE) positions.

19-708.01. ELIGIBILITY.

All employees in FTE positions shall be allowed to observe with pay those holidays listed in Section 19-708.02.

19-708.02. LEGAL HOLIDAYS.

State Holidays

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
George Washington's Birthday/President's Day	Third Monday in February
Confederate Memorial Day	May 10
National Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday Following Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25
Day after Christmas	December 26

19-708.03. HOLIDAY OBSERVANCE PROCEDURE.

A. Holidays are to be taken on the prescribed day unless the agency requires the employee to work. The agency shall give employees who must work on holidays prior notice if possible.

B. When a holiday falls on a Saturday or Sunday, it shall be observed on the preceding Friday or the following Monday, respectively, by employees working a Monday through Friday schedule. Employees shall observe the holiday on the designated day or receive holiday compensatory time.

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C. Employees in FTE positions who do not work a normal Monday through Friday workweek shall receive no more nor any fewer number of holidays than those employees who work the normal Monday through Friday workweek.

D. The length of an employee's holiday is computed based on the number of hours in the employee's average workday. To determine the number of hours in a holiday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reports to work).

E. When a holiday falls during a period of leave with pay, that day will be counted as a holiday, not as a day of leave.

F. Employees who are on leave without pay the day before a holiday shall not be paid or receive holiday compensatory time for holidays falling during this period of leave without pay.

G. The holiday schedules of public colleges and universities, including technical colleges, shall not be in violation of this Section so long as the number of holidays provided in this Section are not exceeded.

19-708.04. HOLIDAY COMPENSATORY TIME.

A. An employee, except an employee of an agency following an academic schedule, who is required by the agency to work on a holiday shall be given holiday compensatory time at the convenience of the agency within 90 days of such holiday.

B. An employee of an agency which follows an academic schedule who is required by the agency to work on a holiday shall be given holiday compensatory time at the convenience of the agency within one year from the date of the holiday.

C. An employee who must work a portion of the holiday due to a shift that begins on one day and ends on another shall be granted holiday compensatory time equal to all hours worked on the holiday.

D. All nonexempt employees who are not allowed to take holiday compensatory time earned for working on a holiday within the 90-day period, or the one-year period in the case of employees who follow academic schedules, shall be compensated for the holiday by the employing agency at the straight hourly pay rate of the employee. Exempt employees shall not be paid for unused holiday compensatory time. An agency head or designee may extend the 90-day period for an additional 90 days because of limited staffing.

E. All nonexempt employees shall be compensated for all holiday compensatory time upon separation from employment. Nonexempt employees shall be paid out for any unused holiday compensatory time prior to transferring to another agency. Exempt employees shall not be paid for unused holiday compensatory time upon separation of employment.

F. Holiday Compensatory Time Records

Records shall be maintained for all employees who receive holiday compensatory time. Information contained in the record must include:

1. Compensatory time earned and used in terms of hours; and
2. The number of hours per week the employee is normally scheduled to work and the employee's average workday.

19-709. ANNUAL LEAVE.**SCOPE AND PURPOSE**

This Regulation governs the annual leave policies for employees in full-time equivalent (FTE) positions.

19-709.01. ELIGIBILITY.

A. Annual leave shall be earned by and granted to:

1. Full-time employees in FTE positions, and
2. Part-time employees in FTE positions who are:
 - a. Scheduled to work at least one-half the workweek of the agency on a 12 month basis, or
 - b. Scheduled to work the equivalent of one-half of the workweek during the full school or academic year of nine months or more.

B. This Regulation shall not apply to teaching personnel and officials of academic rank at institutions of higher learning.

19-709.02. ANNUAL LEAVE EARNINGS.

A. Computation

1. Employees who are in pay status one-half or more but not all of the workdays of the month shall earn annual leave for the full month. If they are in pay status for less than one-half the workdays, they shall earn no annual leave.

2. Employees shall earn annual leave while on annual leave, sick leave, or other authorized leave with pay. Employees shall not earn annual leave while on leave without pay.

3. Employees' annual leave earnings are computed based on the number of hours in the employee's workday.

4. Employees' annual leave earnings are based on the employee's leave accrual date. The leave accrual date reflects:

a. All State service in an FTE position, including part-time service, adjusted to reflect periods when there was a break in service;

b. All service as a certified employee in a permanent position of a school district of this State; and

c. At the discretion of the agency head or his designee, all service in any temporary capacity counted towards the employee's probationary period. (*Refer to Section 19-704.02 D. 2.*)

B. Rate of Earnings

1. Five-Day Workweek Schedule of 37.5 or 40 Hours Per Week

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a. To determine the number of hours in a workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reports to work).

b. Service of Ten Years or Less

Employees on a five-day workweek schedule with service time of less than ten years shall earn annual leave at the rate of 1¼ workdays per month of service in each calendar year. (See Chart #1 and Chart #2 below.) In addition, all service as a certified employee in a permanent position of a school district of this State must be used to calculate the leave accrual date.

c. Service of More Than Ten Years

Employees on a five-day per workweek schedule with State service time of more than ten years shall earn a bonus of 1¼ workdays of annual leave for each year of service over ten years. (See Chart #1 and Chart #2 below.) In addition, all service as a certified employee in a permanent position of a school district of this State must be used to calculate the leave accrual date.

Chart #1

Five Days, 37.5 Hours Per Workweek Schedule

(may be rounded to the nearest two decimal places)

<u>Years of Service</u>	<u>Earning Rate</u>	
	<u>Days Per Year</u>	<u>Hours Per Month</u>
1-10	15.00	9.375
11	16.25	10.156
12	17.50	10.937
13	18.75	11.718
14	20.00	12.500
15	21.25	13.281
16	22.50	14.062
17	23.75	14.843
18	25.00	15.624
19	26.25	16.406
20	27.50	17.187
21	28.75	17.968
22 & over	30.00	18.750

Chart #2

Five Days, 40 Hours Per Workweek Schedule

(may be rounded to the nearest two decimal places)

<u>Years of Service</u>	<u>Earning Rate</u>	
	<u>Days Per Year</u>	<u>Hours Per Month</u>
1-10	15.00	10.000
11	16.25	10.833
12	17.50	11.666
13	18.75	12.500
14	20.00	13.333

15	21.25	14.167
16	22.50	15.000
17	23.75	15.833
18	25.00	16.667
19	26.25	17.500
20	27.50	18.333
21	28.75	19.167
22 & over	30.00	20.000

2. Schedules Other Than a Five-Day Workweek of 37.5 or 40 Hours Per Week

All employees earn the number of days per year based on their years of service. However, the earning rate in hours per month varies according to the length of the workday. If the workday differs from eight hours, divide the number of hours in the workday by eight, then multiply this ratio by the earnings rate in the last column of Chart #2 above. Examples of such schedules could include:

a. Law enforcement employees who are regularly scheduled to work 43 hours per week. Forty-three hours divided by five equals a workday of 8.6 hours;

b. Fire protection employees who are regularly scheduled to work 53 hours per week. Fifty-three hours divided by five equals a workday of 10.6 hours;

c. Part-time employees who are regularly scheduled to work 20 hours per week. Twenty hours divided by five equals a workday of four hours; or

d. Full-time employees who are regularly scheduled to work 39 hours per week. Thirty-nine hours divided by five equals a workday of 7.8 hours.

C. Maximum Accrual and Carryover

1. Employees shall be permitted to carryover from one calendar year to the next any unused annual leave up to a total accumulation of 45 workdays; EXCEPT THAT, employees of an agency which provided for maximum accumulation in excess of 45 workdays as of June 2, 1972, shall not forfeit the excess, but shall retain excess leave which shall be the maximum amount the employee may carryover into future years. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess of 45 workdays, shall become the employee's maximum carryover into future years. If the employee further reduces the amount of such leave carried over to 45 workdays or less, 45 days shall become the maximum amount of unused annual leave the employee may thereafter carryover. During the calendar year, an employee may earn annual leave in excess of the 45 workdays; however, the employee may only carryover 45 days to the next calendar year.

2. An employee who changes from being full-time to part-time or from part-time to full-time, without a break in service, shall retain the annual leave hours previously earned. If this change results in the employee having a maximum accumulation in excess of 45 workdays as of the effective date of the change, the employee shall not forfeit the excess. The employee shall retain this excess leave which shall be the maximum amount the employee may carryover into future years. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess of 45 workdays, shall become the employee's maximum carryover into future years. If the employee further reduces the amount of such leave carried over to 45 workdays or less, 45 days shall become the maximum amount of unused annual leave the employee may thereafter carryover. During the calendar year, an employee may earn annual leave in excess of the 45 workdays; however, the employee may only carryover 45 days to the next calendar year.

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19-709.03. USING AND SCHEDULING ANNUAL LEAVE.

A. Leave taken under this Section may qualify as Family and Medical Leave Act (FMLA) leave and, if so, will run concurrently.

B. Scheduling Leave

1. To the degree possible, an employee's request for a specific period of annual leave shall be approved. Agencies may consider workloads and similar factors when reviewing the requests.

2. Agency approval is required for the specific periods the employee shall be on annual leave, to include beginning and ending dates and computation of total hours.

C. Maximum Days Used Per Year

1. The maximum number of earned days of annual leave that may be used in any one calendar year shall not exceed 30 workdays.

2. Exception

a. For Family and Medical Leave Act or other disability related qualifying reasons, an agency may allow an employee who has used all eligible sick leave and 30 days of annual leave to use any remaining annual leave for:

(1) Emergencies or serious health conditions of the employee;

(2) Emergencies or serious health conditions of the employee's immediate family. (Immediate family is defined in Section 19-710.04 B. 6.)

b. For emergency or extreme hardship conditions as referenced in South Carolina Code of Laws § 8-11-670, the agency head or designee may allow an employee, who has used all accumulated sick leave and thirty days of annual leave any remaining annual leave which he has accumulated.

c. An employee may request review by the State Human Resources Director the denial of the use of annual leave as provided in this Section.

D. Increments for Use of Annual Leave

Use of annual leave shall be calculated at either the actual time or in quarter hour increments.

E. Holiday During Leave

When a holiday is observed by the agency while an employee is using annual leave, the day shall be considered a holiday, not a day of annual leave for the employee.

19-709.04. TRANSFER FROM ONE STATE AGENCY TO ANOTHER.

A. An employee who transfers without a break in service from one agency to another shall transfer earned annual leave.

B. When a full-time employee transfers to an agency that has a different workday, his annual leave at the transferring agency shall be converted to equivalent days of annual leave at the receiving agency.

C. When an employee transfers from a position in which he earns both sick and annual leave to a teaching position of academic rank at a State supported institution of higher learning, the employee shall be paid for earned annual leave according to Section 19-709.05.

D. When the employee with a maximum carryover in excess of 45 workdays transfers from one agency to another, the employee shall retain the higher maximum carryover at the receiving agency. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess 45 workdays, shall become the employee's maximum carryover into future years. If the employee further reduces the amount of such leave carried over to 45 workdays or less, 45 days shall become the maximum amount of unused annual leave the employee may thereafter carryover. During the calendar year, the employee may earn annual leave in excess of the 45 workdays; however, the employee may only carryover 45 days to the next calendar year.

19-709.05. PAYMENT UPON SEPARATION FROM EMPLOYMENT.

Upon separation from State employment, a lump sum payment will be made for unused annual leave, not to exceed 45 days, unless a higher maximum is authorized under Section 19-709.02 C., and without deducting any earned leave taken during the calendar year in which the employee separates. If the employee has not experienced a break in service, the agency shall not pay out any unused annual leave. However, an employee who transfers or is reassigned to a teaching position or position of academic rank at an institution of higher learning, as referenced in § 8-11-680 of the S.C. Code of Laws, should be paid out for any unused annual leave. Upon the death of an employee while in active service, the estate of the deceased employee shall be entitled to the lump sum payment not to exceed 45 days except as included in South Carolina Code of Laws § 8-11-610.

Exception - Refer to Section 19-719.01 B. 2. (Exceptions).

19-709.06. RECORDS

A. The agency shall maintain all annual leave records for each employee eligible for annual leave. Such records must include at least the following:

1. The annual leave accrual rate for each employee;
2. The number of annual leave hours earned and used during the current calendar year;
3. The number of annual leave hours carried forward from the previous calendar year, but not exceeding the maximum accrual authorized;
4. The number of hours in the employee's workweek and workday; and
5. The number of hours paid out upon separation.

B. Annual leave records shall be reviewed by or reported to the employee no less than once per calendar year and be supported by the individual leave requests.

19-710. SICK LEAVE.

SCOPE AND PURPOSE

This Regulation governs the sick leave policies for employees in full-time equivalent (FTE) positions.

19-710.01. ELIGIBILITY.

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Sick leave shall be earned by and granted to:

- A. Full-time employees in FTE positions, and
- B. Part-time employees in FTE positions who are:

- 1. Scheduled to work at least one-half the workweek of the agency on a 12 month basis, or
- 2. Scheduled to work the equivalent of one-half of the workweek during the full school or academic year of nine months or more.

19-710.02. SICK LEAVE EARNINGS.

A. Computation

1. Employees who are in pay status for at least one-half or more of the workdays of the month shall earn sick leave for the full month. If they are in pay status for less than one-half the workdays, they shall earn no sick leave.

2. Employees shall earn sick leave while on sick leave, annual leave, or other authorized leave with pay. Employees shall not earn sick leave while on leave without pay.

3. Employees' sick leave earnings are computed based on the number of hours in the employee's workday.

B. Rate of Earnings

1. Five-Day Workweek Schedule of 37.5 or 40 Hours Per Week

All employees in FTE positions shall earn sick leave beginning with the date of employment at the rate of $1\frac{1}{4}$ workdays per month of service or 15 days per year. To determine the number of hours in a workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reported to work).

2. Schedules Other Than a Five-Day Workweek of 37.5 or 40 Hours Per Week

To calculate the sick leave earnings for employees working schedules other than a five-day workweek of 37.5 or 40 hours per week (including part-time, variable, and nonstandard work schedules), the agency must determine what a workday is for each such employee. To determine the number of hours in a workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reported to work). Examples of such schedules could include:

a. Law enforcement employees who are regularly scheduled to work 43 hours per week. Forty-three hours divided by five equals a workday of 8.6 hours;

b. Fire protection employees who are regularly scheduled to work 53 hours per week. Fifty-three hours divided by five equals a workday of 10.6 hours;

c. Part-time employees who are regularly scheduled to work 20 hours per week. Twenty hours divided by five equals a workday of four hours; or

d. Full-time employees who are regularly scheduled to work 39 hours per week. Thirty-nine hours divided by five equals a workday of 7.8 hours.

C. Maximum Accrual and Carryover

Full-time and part-time employees in FTE positions shall be permitted to earn up to 195 workdays. Full-time and part-time employees in FTE positions shall carryover from one calendar year to the next any unused earned sick leave up to a total maximum carryover of 180 workdays.

Exceptions

1. Any employee, who prior to January 1, 1969, earned and carried over unused sick leave in excess of 180 workdays pursuant to the agency's policy existing at the time, shall not forfeit the excess, but shall retain such excess leave which shall become the maximum amount the employee may carryover into future years. If the employee subsequently reduces the amount of sick leave carried over to 180 workdays or less, 180 workdays shall become the maximum amount of unused sick leave the employee may thereafter carryover; or

2. An employee who changes from being full-time to part-time or from part-time to full-time, without a break in service, shall retain the sick leave hours previously earned. If this change results in the employee having a maximum accumulation in excess of 180 workdays, as of the effective date of the change, the employee shall not forfeit the excess. The employee shall retain this excess leave which shall be the maximum amount the employee may carryover into future years. If the employee subsequently reduces the amount of such leave carried over, the reduced amount, if in excess of 180 workdays, shall become the employee's maximum carryover into future years. If the employee further reduces the amount of such leave carried over to 180 workdays or less, 180 workdays shall become the maximum amount of unused sick leave the employee may thereafter carryover. During the calendar year, an employee may earn sick leave in excess of 180 workdays; however, an employee may only carry over 180 days into the next year.

19-710.03. ADDITIONAL SICK LEAVE MAY BE GRANTED.

A. An agency may advance up to 15 workdays of additional sick leave to an employee in extenuating circumstances.

B. The agency may advance this leave only upon documentation from a health care provider that the employee is expected to return to work within that period of time.

C. Upon return to work, the employee will have all earned sick leave applied to the leave deficit at the rate of 1¼ days per month (or if part-time, the monthly earning rate) until the deficit has been eliminated.

D. If an employee separates from employment before satisfying the leave deficit and returns to state employment, the leave deficit will need to be satisfied upon reemployment.

19-710.04. USING AND SCHEDULING SICK LEAVE.

A. Leave taken under this Section may qualify as Family and Medical Leave Act (FMLA) leave and, if so, will run concurrently.

B. Reasons an employee shall be allowed to use sick leave are as follows:

1. Personal illness or injury that incapacitates the employee to perform duties of the position;
2. Exposure to a contagious disease such that presence on duty could endanger the health of fellow employees;

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3. Appointment for medical or dental examination or treatment when such appointment cannot reasonably be scheduled during nonwork hours;

[Note: if possible, examination appointments must be approved in advance by the agency designee.]

4. Sickness during pregnancy or other temporary disabilities;

[Note: If possible, the date on which sick leave for disability is to begin shall be at the request of the employee based on the determination and advice of a health care practitioner.]

5. Treatment for alcoholism;

[Note: In accordance with § 8-11-110 of the South Carolina Code of Laws which recognizes alcoholism as a treatable illness, sick leave will be granted for the purpose of participating in public and private treatment and rehabilitation programs which have been approved by the South Carolina Department of Mental Health.]

6. Caring for ill members of immediate family;

[Note: Employees earning sick leave as provided in Section 19-710 may not use more than ten days of sick leave annually to care for ill members of their immediate families. For purposes of this section, the employee's "immediate family" means the employee's spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and grandchildren.]

7. Caring for an adoptive child;

[Note: An adoptive parent who is employed by this State, its departments, agencies, or institutions may use up to six weeks of his earned sick leave to take time off for purposes of caring for the child after placement. The agency shall not penalize an employee for requesting or obtaining time off according to this Section. The leave authorized by this Section may be requested by the employee only if the employee is the person who is primarily responsible for furnishing the care and nurture of the child.]

C. Verification

The use of sick leave shall be subject to verification. The agency designee may, before approving the use of sick leave, require the certificate of a health care practitioner verifying the need for sick leave and giving the inclusive dates.

D. Increments for Use of Sick Leave

Use of sick leave shall be calculated at either the actual time or in quarter hour increments.

E. Use of Sick Leave Before Going on Leave Without Pay

In qualifying sick leave situations, the employee shall use all sick leave before going on leave without pay unless the agency head or his designee grants an exception at the employee's request.

F. Holiday During Sick Leave

When a holiday is observed by the agency while an employee uses sick leave, the day shall be considered a holiday, not a day of sick leave for the employee.

19-710.05. TRANSFER.

A. Between State Agencies

An employee who transfers without a break in service from one State agency to another shall transfer his earned sick leave. Any transferred sick leave shall be adjusted to the scheduled workweek of the receiving agency. In the case of an employee transferring from an agency under whose system the employee has, prior to

January 1, 1969, a maximum accumulation in excess of that currently authorized by the receiving agency, the total sick leave balance shall be transferred. If the employee subsequently reduces the amount of sick leave carried over to 180 workdays or less, 180 workdays shall become the maximum amount of unused sick leave the employee may thereafter carryover.

B. Between A State Agency and School District

An employee of a State agency transferring to a school district of the State or a school district employee transferring to a State agency is permitted to transfer to and retain at his new employer all sick leave he earned at his former employer regardless of his employment status at the new employer.

19-710.06. SEPARATION FROM EMPLOYMENT.

Upon separation from employment, an employee shall forfeit all earned sick leave.

A. Retirement - An employee who is a Class Two member of the South Carolina Retirement System or the Police Officer Retirement System shall receive service credit for no more than 90 days of his unused sick leave at no cost to the employee. The leave must be credited at a rate where 20 days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

B. Reduction in Force Rights - An employee who is reinstated within one year of the date of separation shall have his sick leave restored. (*Refer to Section 19-719.04 B. 4. d.*)

C. Up to Six Month Exception to Break in Service - An employee who has received prior approval for an extension to the 15-day break in service shall have his sick leave restored if transferred or appointed to another FTE position within the approved time period. (*Refer to Section 19-719.01 B. 2. (Exception).*)

19-710.07. RECORDS.

A. The agency shall maintain all sick leave records for each employee eligible for sick leave. Such records must include at least the following:

1. The number of sick leave hours earned and used during the current calendar year;
2. The number of sick leave hours carried forward from the previous calendar year, but not exceeding the maximum accrual authorized; and
3. The number of hours in the employee's workweek and workday.

B. Sick leave records shall be reviewed by or reported to the employee no less than once per calendar year and be supported by individual leave requests.

19-711. LEAVE TRANSFER PROGRAM.

SCOPE AND PURPOSE

This Regulation governs the manner in which employees may voluntarily donate sick or annual leave into a leave transfer pool for use by other employees, who have been approved as leave recipients under personal emergency circumstances.

19-711.01. AGENCY RESPONSIBILITY.

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A. Each agency shall establish two separate leave transfer pool accounts, a sick leave transfer pool and an annual leave transfer pool.

B. Records and Forms

Each agency shall maintain the following records:

1. Donation Request Form - The Donation Request Form shall include:

- a. The employee's name;
- b. The employing agency;
- c. The employee's State title;
- d. The employee's hourly rate of pay;
- e. The number of days/hours of the leave donor's earned sick or annual leave;
- f. The number of days/hours of sick or annual leave the employee wishes to donate to the appropriate leave transfer pool;
- g. The date of the donation; and
- h. The leave donor's signature.

2. Recipient Request Form - The Recipient Request Form shall include:

- a. The employee's name;
- b. The employing agency;
- c. The employee's State title;
- d. The employee's hourly rate of pay; and
- e. A brief description of the nature, severity, and anticipated duration of the medical, family, or other hardship situation affecting the employee.

3. Leave Restoration Form - The Leave Restoration Form shall include:

- a. The name of the leave recipient;
- b. The type of leave transferred (sick or annual);
- c. The amount of transferred leave used;
- d. The date the leave recipient's personal emergency or employment terminates; and
- e. The amount of transferred leave (sick or annual) being restored to the respective pool.

19-711.02. ANNUAL REPORTING.

Each agency having any donation or approved requests for leave transfer in a calendar year shall submit the following information to the Division of State Human Resources (DSHR):

A. Sick Leave - Total hours and cost of:

1. Sick leave donated;
2. Sick leave used by recipient(s); and
3. Sick leave restored, if any.

B. Annual Leave - Total hours and cost of:

1. Annual leave donated;
2. Annual leave used by recipient(s); and
3. Annual leave restored, if any.

C. Any additional information requested by DSHR needed to evaluate the desirability, feasibility, and cost of the leave transfer program.

19-711.03. ELIGIBILITY TO DONATE.

A. An employee donating sick or annual leave to either the sick or annual leave transfer pool must do so prior to the end of the calendar year.

B. An employee may donate no more than one-half of the sick or annual leave he earns within a calendar year to the appropriate pool leave account for that calendar year.

C. An employee's leave, once transferred to a pool account, must not be restored or returned to the leave donor.

D. Sick Leave - An employee with more than 15 days in his sick leave account may transfer sick leave to the agency's sick leave pool if he retains a minimum of 15 days in his own sick leave account. An employee with less than 15 days in his sick leave account may not transfer any sick leave to the agency's sick leave pool.

E. Annual Leave - An employee may voluntarily request by completing the employing agency's Donation Request Form, that a specified number of hours of his earned annual leave be transferred from his annual leave account to his employing agency's annual leave transfer pool.

19-711.04. REQUEST FOR LEAVE.

An employee with a personal emergency may request sick or annual leave from the appropriate pool account by completing the employing agency's Recipient Request Form. While there is no limit to the number of separate requests that an employee may submit to the employing agency, each separate request shall be limited to no more than 30 workdays.

19-711.05. LEAVE APPROVAL.

Under guidelines established by the Department of Administration, the agency head of the employing agency may, upon receiving a completed request, review all necessary information and approve recipients from within

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the agency to participate in the leave transfer program. Unless the personal emergency involves a medical condition affecting the leave recipients, the employing agency may consider the likely impact on morale and efficiency within the agency in approving a leave recipient to use transferred leave.

19-711.06. NO ADMINISTRATIVE OR JUDICIAL APPEAL.

The decisions of the agency head of the employing agency are final, and there is no administrative or judicial appeal of the decisions.

19-711.07. USE OF SICK OR ANNUAL LEAVE.

A. Leave taken under this Section may qualify for the Family Medical Leave Act (FMLA) and, if so, will run concurrently.

B. Under guidelines established by the Department of Administration, the employing agency may transfer all or any portion of the sick leave in the pool account to the sick leave account of the leave recipient, and all or any portion of the annual leave in the pool account to the annual leave account of the leave recipient.

C. Upon approval of a request, an employee may use sick or annual leave from the appropriate pool account in the same manner and for the same purposes as if the employee had earned the leave in the manner provided by law.

D. Sick or annual leave earned by the leave recipient must be used before using any leave from a leave transfer pool.

E. Sick or annual leave transferred under this program may be substituted retroactively for periods of leave without pay or used to liquidate indebtedness for advanced sick leave.

19-711.08. WHEN PERSONAL EMERGENCY TERMINATES.

A. The personal emergency affecting a leave recipient terminates when either the employing agency determines that the personal emergency no longer exists or either the leave recipient separates from employment.

B. The employing agency shall monitor continuously the status of the personal emergency affecting the leave recipient and establish procedures to ensure that the leave recipient is not permitted to receive or use transferred sick or annual leave from a pool account after the personal emergency terminates.

C. When the personal emergency terminates, the employing agency may not grant further requests for transfer of leave to the leave recipient's leave account. When the personal emergency affecting a leave recipient terminates, any transferred sick or annual leave remaining must be restored to the appropriate pool account by completing a Leave Restoration Form.

19-711.09. SEPARATION FROM EMPLOYMENT.

Transferred sick or annual leave from a pool account remaining when the leave recipient separates from employment must be restored to the appropriate pool account by the completion of a Leave Restoration Form. Upon separation from employment, transferred leave from a pool account must not be transferred to another employee, included in a lump sum payment for earned leave, or included in the leave recipient's total service for retirement computation purposes.

19-712. OTHER LEAVE PROGRAMS.

SCOPE AND PURPOSE

This Regulation governs the leave programs, other than annual and sick leave and holidays.

19-712.01 OTHER LEAVE TYPES.

Leave taken under this Section may qualify as Family and Medical Leave Act (FMLA) leave and, if so, will run concurrently.

A. Administrative Leave

State employees in full-time equivalent (FTE) positions who are physically attacked while in the performance of official duties and suffer bodily harm as a result of the attack must be placed on administrative leave with pay by their employers rather than sick leave. The period of administrative leave for each incident may not exceed 180 calendar days. Denial of the use of administrative leave by the agency will be grounds for review by the Division of State Human Resources (DSHR) upon request of the employee. Administrative review by DSHR will be final.

B. Adoption Leave– (*Refer to Section 19-710.04 B. 7.*)

C. American Red Cross Certified Disaster Service Leave

An employee who is a certified disaster service volunteer for the American Red Cross may use up to 10 days of paid leave in a calendar year to participate in specialized disaster relief services with the approval of the agency designee.

D. Blood Drive and Donation Leave

1. Agencies may periodically arrange volunteer blood drives for their employees. The blood drives may be held at the times and places as may be determined by the agency head. The agency's employees are permitted to participate in the blood drive during their work hours without using sick and annual leave.

2. An employee desiring to donate blood at a time, other than an agency arranged volunteer blood drive, must be excused from work by his agency during the employee's regular work hours for the purpose of making the donation without prejudice to the employee and no leave or makeup time may be required. Any employee desiring to donate blood as provided in § 8-11-175 of the South Carolina Code of Laws shall notify his agency of the scheduled donation and the amount of time needed for the donation as far in advance as may be practicable. The agency may deny the employee's request for time to donate if the absence of the employee would create an extraordinary burden on the agency. In considering the employee's request, the agency shall take into consideration such factors as the necessity and type of blood donation, and any other factor the agency considers appropriate. The agency may, as condition of approving the request, require the employee to provide documentation of the donation.

E. Bone Marrow Donor Leave

An employee who works an average of 20 hours or more a week and who seeks to undergo a medical procedure to donate bone marrow may be granted bone marrow donor leave with pay. The total amount of paid leave may not exceed 40 work hours unless a longer length of time is approved by the agency head. Such leave may require verification by a health care practitioner of the purpose and length of each request. If a medical determination finds that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee before that medical determination is not forfeited.

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F. Court Leave

1. Jury Duty (With Pay)

a. An employee, who is summoned as a member of a jury panel, shall be granted court leave with pay. Any jury fees and travel payment shall be retained by the employee. This court leave with pay shall not apply to agencies whose employees are exempt from jury duty by law.

b. An employee, who is excused from jury duty and was not required to be at court the number of hours equal to the employee's workday, is required to return to the job according to arrangements between the employee and the agency designee. The employee must be on authorized leave for any time the employee is excused from jury duty and does not return to work.

c. An employee who is summoned to jury duty will be required to work on any given day only the number of hours that equal the employee's work schedule, minus the hours required to be at court.

2. Subpoenaed As a Witness (With Pay)

An employee, who is subpoenaed as a witness and who will not receive any personal gain from the outcome of the litigation, shall be entitled to court leave with pay for those hours required for the subpoena and may retain any witness fee and travel expenses.

3. An employee, who is victim of or witness to a crime and must attend court in relation to the case or in order to obtain an Order of Protection or restraining order, shall receive court leave with pay.

4. Exceptions

a. An employee engaged in personal litigation is not eligible for court leave with pay, but may be granted annual leave or leave without pay with appropriate authorization.

b. When an employee is subpoenaed to represent an agency as a witness or defendant, his appearance is considered a part of the employee's job assignment. The employee shall be reimbursed for any meals, lodging, and travel expenses that may be incurred according to the rules and regulations as provided by the Office of the Comptroller General.

c. When an employee attends, in an official capacity, a mediation or mediation-arbitration conference, his attendance is considered a part of the employee's job assignment.

d. When an employee appears as a witness or in any other official capacity in a hearing before the State Employee Grievance Committee, his appearance is considered a part of the employee's job assignment.

G. Death in Immediate Family Leave

1. An employee, upon request, shall be granted up to three consecutive workdays of leave with pay on the death of any member of the employee's immediate family. Immediate family is defined as the spouse, great-grandparents, grandparents, parents, legal guardians, brothers, spouse of brothers, sisters, spouse of sisters, children, spouse of children, grandchildren, great-grandchildren of either the employee or the spouse.

2. An employee requesting leave for a death in the immediate family shall submit a statement to the appropriate authority stating the name of the deceased and the relationship to the deceased.

H. Educational Leave

An employee is encouraged to schedule classes during off-duty hours, whenever possible. When a class cannot be scheduled during off-duty hours, the agency may adjust the employee's work schedule, if doing so will not interfere with normal efficient operations of the agency. When a class cannot be scheduled during off-duty hours and the agency cannot feasibly adjust the work schedule of the employee, the employee may be allowed to take annual leave or may be granted leave without pay in order to attend classes.

I. Extended Disability Leave

Under the Americans with Disabilities Act (ADA), the Americans with Disabilities Act Amendments Act (ADAAA), and other applicable law, certain extended impairments may be protected as disabilities and may require reasonable accommodation. In certain cases, the use of leave may be considered a reasonable accommodation. Determinations regarding reasonable accommodations should be made on a case-by-case basis as dictated by the circumstances.

The agency shall require, prior to approval of leave as a reasonable accommodation, certification by the health care practitioner to a reasonable degree of medical certainty to include at a minimum: (a) the date on which the disability commenced; (b) the probable duration of the condition and a probable return date; and (c) appropriate medical facts within the knowledge of the health care practitioner regarding the condition and any work limitations. Dates set forth in the health care practitioner's certificate may be amended. The agency may require additional documentation from the health care practitioner issuing the certificate, or may secure additional medical opinions from other health care practitioners. If an employee's health care practitioner or the employee identifies a disability as long-term, the agency may suggest to the employee to contact the Public Employee Benefit Authority (PEBA) as soon as possible to evaluate eligibility for any appropriate benefits, such as insurance or retirement, if the employee believes it would be appropriate.

J. Family and Medical Leave Guidelines

For more detailed information, consult the Family and Medical Leave Act (FMLA) and relevant federal regulations. State government is considered a single employer for the purpose of determining FMLA leave.

1. Eligibility and Reasons for FMLA Leave

a. Family Medical Leave Act leave shall be granted to any employee who has worked for the State at least 12 months, and who has worked at least 1,250 hours (defined as FLSA compensable hours of work) during the 12-month period prior to the request for FMLA leave, including "on-call" hours. The required total of 12 months of employment need not be consecutive. An agency can go back 7 years prior to the date of the need for leave to determine if the employee worked a total of 12 months with state government. An agency has the ability to go beyond 7 years if an employee left state employment due to National Guard or Reserve Military obligations or a written agreement reflecting an employer's intention to rehire after a break.

In order to determine if an exempt employee meets the 1,250 hours of service, work records may be kept.

b. An eligible employee shall be granted up to a total of 12 weeks of FMLA leave, in each calendar year, for any of the following reasons:

- (1) For the birth of a son or daughter and to care for that child;
- (2) For placement of a son or daughter for adoption or foster care with the employee;
- (3) For caring of the employee's spouse, son, daughter, or parent with a serious health condition; and

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(4) For a serious health condition that makes the employee unable to perform the functions of the employee's job.

(5) For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member for the National Guard or Reserves in support of a contingency operation. Qualifying exigencies can include: 1) short notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post- deployment activities; and 8) additional activities not encompassed in other categories but agreed by the agency and the employee.

c. Under the military caregiver leave provisions, an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness may be able to take up to a total of 26 workweeks in a single 12-month period to care for the service member.

Note: Reasons (1) and (2) for leave expires 12 months after the date of the birth or placement.

2. Scheduling FMLA Leave

An eligible employee requesting FMLA leave must give 30 days advance notice to the employing agency of the need to take FMLA leave when the need for leave is foreseeable. When the need for leave is not foreseeable, such notice must be given as soon as practical. The use of FMLA leave shall be subject to verification. The agency may require documentation or certification from a health care provider supporting the need for FMLA leave for a serious health condition. Agencies may also require documentation for certification of serious health condition of a spouse, son, or daughter, a qualifying exigency or to confirm familial relationships.

3. Use of FMLA Leave

The agency is responsible for declaring leave as FMLA leave based on information provided by the employee.

a. When the agency designates leave as FMLA leave, it must notify the employee. No leave may be designated as FMLA leave after the leave has ended, except as provided for under the FMLA.

b. Use of FMLA leave shall be calculated by either the actual time or in quarter hour increments.

c. The agency should declare any leave taken that qualifies as FMLA leave. The FMLA leave should run concurrently with any other leave, and the leave should be charged against the appropriate leave balances.

4. Use of Paid and Unpaid Leave

Generally, FMLA leave is unpaid; however,

a. An eligible employee will be required to substitute his accrued sick leave for unpaid FMLA leave when the FMLA leave request qualifies for sick leave usage, or

b. An eligible employee may elect to substitute accrued annual leave for unpaid FMLA leave.

5. FMLA Leave Record

A leave record shall be maintained by the employing agency for each employee subject to the provisions of the FMLA. Such record shall:

a. Reflect the maximum FMLA leave allowance (12 weeks in a calendar year) and charges in terms of hours.

b. Indicate the number of FMLA leave hours used in the current calendar year.

c. Indicate the number of hours in the employee's established workweek.

6. Transfer of FMLA Leave

For an eligible employee who transfers from one agency to another, the transferring agency is responsible for transferring the employee's FMLA leave records in that calendar year to the receiving agency.

K. Hazardous Weather and Emergency Leave

1. Upon issuing a Declaration of Emergency, the Governor has the authority to excuse all employees of State government from reporting to work during extreme weather or other emergency conditions. "Emergency conditions" means circumstances that would expose employees to harmful or unsafe conditions as determined by the Governor's Office. Unless such a Declaration of Emergency has been issued, all State government employees are expected to report to work.

Exception - Nothing contained in this Section precludes the necessary immediate evacuation of a facility by an individual in an appropriate supervisory capacity in the interest of personal safety.

2. The Declaration may be applicable to all employees in the entire State, or only to those employees who live or work in one geographical region of the State, or a combination of geographical regions.

3. During a Declaration of Emergency, all essential and direct care services will be maintained. Each agency shall identify and notify essential employees by position, classification, or internal title. All other employees will not be expected to report to work.

4. Notification of Declaration of Emergency

Upon the communication of the Declaration of Emergency from the Governor's Office to the South Carolina Emergency Management Division, the South Carolina Emergency Management Division will communicate the Declaration of Emergency to each agency.

5. Compensation During Declaration of Emergency

Notwithstanding any other provisions of law, when the Governor declares a state of emergency for the State or any portion of the State, he can provide State employees with leave with pay for absences from work due to the state of emergency for hazardous weather of up to five days for each declaration of a state of emergency. In the event that the Governor does not provide State employees with leave with pay, an employee who does not report to work or who reports late to work shall use annual leave or compensatory time to make up hours scheduled but not worked, take leave without pay, or be allowed to make up the hours at a time to be scheduled by the agency. The employee must be given the option of making up the hours if the employee so desires.

L. Military Leave (Cross reference FMLA. Refer to Section 19-712.01 J. on qualifying exigencies.)

1. Short Term Military Training

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All officers and employees of this State or a political subdivision of this State, who are either enlisted or commissioned members of the South Carolina National Guard, the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, or the United States Coast Guard Reserve are entitled to leaves of absence from their respective duties without loss of pay, time, or efficiency rating, for one or more periods not exceeding an aggregate of 15 regularly scheduled average workdays in any one year during which they may be engaged in training or any other duties ordered by the Governor, the Department of Defense, the Department of the Army, the Department of the Air Force, the Department of the Navy, the Department of the Treasury, or any other department or agency of the government of the United States having authority to issue lawful orders requiring military service. Saturdays, Sundays, and State holidays may not be included in the 15-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved. In the event any such person is called upon to serve during an emergency, he is entitled to such leave of absence for a period not exceeding 30 additional days. Any one year means either a calendar year or, in the case of members required to perform active duty for training or other duties within or on a fiscal year basis, the fiscal year of the National Guard or reserve component issuing the orders.

A state employee in a full time position who serves on active duty in a combat zone and who has exhausted all available leave for military purposes is entitled to receive up to thirty additional work days of military leave in any one year.

2. Long Term Military Leave of Absence

Every employee of the State or any political subdivision thereof who, on or after June 25, 1950, has been, or shall be commissioned, enlisted, or selected for service in the Armed Forces of the United States (excluding short term training) shall, so long as the requirements and regulations of the Armed Forces shall prevent his return to his civil employment for a period of 90 days thereafter, but in no event for a period longer than five years from the date of entry into the Armed Forces of the United States, be entitled to leave of absence from his duties as an employee of the State or any political subdivision thereof, without loss of seniority or efficiency or register ratings. The word "employee" as used herein shall not be construed to mean an officer or official elected or appointed to a term pursuant to a statute or the Constitution of this State.

M. Sabbatical Leave

When provided in statute, an institution of higher learning may establish a policy for a leave of absence for a sabbatical for academic personnel.

N. State Employee Grievances and Appeals Attendance

Refer to Section 19-712.01 F. 3. c. and d.

O. Voting Leave

An employee who lives at such distance from the assigned work location as to preclude voting outside of working hours may be authorized a maximum of two hours of leave with pay for this purpose. To work at the polls during elections, an employee must be on authorized leave.

P. Workers' Compensation Leave

1. If there is an accidental injury arising out of and in the course of employment with the State, which is covered under Workers' Compensation, an employee who is not eligible for or who has exhausted his paid administrative leave, shall make an election to use either earned leave time (sick or annual or both) or Workers' Compensation benefits awarded in accordance with Title 42 of the South Carolina Code of Laws.

2. The employee shall make an election under one of the following options:
- a. To use sick leave, annual leave, or both. When earned leave is exhausted before the employee can return to work, the employee shall be entitled to Workers' Compensation benefits at the time leave is exhausted;
 - b. To use Workers' Compensation benefits awarded in accordance with Title 42 of the South Carolina Code of Laws, as amended; or
 - c. To use sick leave, annual leave, or both on a prorated basis in conjunction with Workers' Compensation benefits according to the formula approved by the Department of Administration.
3. Before the election is made, the effect of each available option on the employee's future leave earnings must be explained to the employee by the employing agency. The election must be in writing and signed by the employee and the person who explains the options. The election of the employee is irrevocable as to each individual incident.
4. Regardless of which option an employee elects, he would continue to be eligible for payment of medical costs provided by the State Accident Fund.

Q. Organ Donor Leave

All officers and employees of this State who wish to be an organ donor and who accrue annual or sick leave as part of their employment are entitled to leaves of absence from their respective duties without loss of pay, time, leave, or efficiency rating for one or more periods not exceeding an aggregate of 30 regularly scheduled workdays in any one calendar year during which they may engage in the donation of their organs. Saturdays, Sundays, and State holidays may not be included in the 30-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved. The officer or employee must show documentation from the attending physician of the proposed organ donation before leave is approved that confirms that the employee is the donor.

R. Leave of Absence

To grant any leave of absence with or without pay, the agency must approve the leave of absence. An employee who is granted leave of absence with or without pay shall be:

1. An employee of the State while on such leave; and
2. Returned to the same position, or one in a comparable pay band for which the employee is qualified.

Any leave of absence must be approved in advance except in case of medical or personal emergencies. These situations must be justified to the agency head or his designee for approval.

19-712.02. OTHER LEAVE RECORDS.

- A. The agency shall maintain all leave records for each employee eligible for such leave. Such records must include the number of leave hours used during the current calendar year.
- B. Leave records shall be reviewed by or reported to the employee no less than once per calendar year and be supported by individual leave requests.

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19-713. DUAL EMPLOYMENT.

SCOPE AND PURPOSE

This Regulation governs how employees in full-time equivalent (FTE) positions may accept additional temporary, part-time employment with the same or another agency.

19-713.01. STATEMENTS OF POLICY.

A. General Provisions

1. In accordance with this Regulation, agencies may develop internal dual employment policies.
2. Dual employment shall be limited in duration to the specific time frame approved which cannot exceed 12 months.
3. The practice of dual employment should not be used to provide higher continuing salaries than those approved by the Department of Administration. An employee engaged in dual employment shall satisfy the requirements of the established hours of work for the primary agency.
4. No agency head may be dually employed by another agency or institution of higher education without prior approval by the Agency Head Salary Commission and the Department of Administration.

B. Approval of Dual Employment

1. The agency heads or their designees of the primary and secondary agencies, or the agency head or his designee when the dual employment is in the same agency, are responsible for approving dual employment requests prior to the beginning of the dual employment relationship.
2. Because the secondary agency is responsible for coordinating dual employment arrangements, the secondary agency will coordinate the approval and any modifications of the dual employment request with the primary agency.
3. The primary agency should process dual employment requests in a timely manner.

C. Scheduling Dual Employment

1. Dual Employment Between Two Agencies

Ordinarily, an employee's work schedule with the primary agency should not be altered or revised to provide time to perform dual employment duties for the secondary agency. However, an employee may be permitted to use annual leave or leave without pay to provide services during working hours for a secondary agency and may receive compensation from the secondary agency for services performed during the period of leave.

2. Dual Employment Within an Agency

An employee who performs services during other than normally scheduled hours of work for his primary agency may be considered to be performing dual employment and be paid additional compensation, if such services constitute independent, additional job duties from those of the employee's primary duties within the agency. No employee shall receive any additional compensation from the primary agency while in a leave with pay status to include all designated State holidays, annual leave, and compensatory time. The agency head should only approve dual employment within the same agency when extraordinary circumstances exist based on the agency's business needs.

D. Compensation for Dual Employment

1. No compensation for dual employment shall be paid to an employee prior to the approval of a dual employment agreement.

2. Both the primary agency and the secondary agency must comply with the provisions of the Fair Labor Standards Act (FLSA).

3. Compensation for dual employment will be determined by the secondary agency; however, the maximum compensation that an employee will be authorized to receive for dual employment in a fiscal year shall not exceed 30% of the employee's annualized salary with the employing agency for that fiscal year. The primary agency is responsible for ensuring that dual employment payments made to its employees within one fiscal year do not exceed the 30% limitation. The Division of State Human Resources (DSHR) is authorized to approve exceptions to the 30% limitation based on written justification submitted by the agency.

4. Payment of dual employment compensation shall be made in a timely manner. The secondary agency must make payment of funds approved for and earned under dual employment within 45 days of the beginning of the employment.

5. No employee shall be eligible for any additional fringe benefits as a result of dual employment, including but not limited to annual leave, sick leave, military leave, State insurance, and holidays. However, dual employment compensation shall be subject to such tax and retirement deductions as required.

E. Dual Employment Recordkeeping

1. All dual employment requests must be in writing and contain the following information:

a. Name of secondary agency;

b. Description of services to be performed, beginning and ending dates of the dual employment, hours of work, and the FLSA status of the work to be performed for the secondary agency;

c. Name of primary agency;

d. Name of employee, State title of the employee's position, the FLSA status of the employee's position at the primary agency, present annualized salary of employee, and scheduled hours of work at the primary agency;

e. Amount and terms of compensation, if applicable; and

f. Signature of the agency heads or their designees, of both the secondary and the primary agencies, authorizing the dual employment as well as the signature of the employee.

2. For each dual employment arrangement, both the primary and secondary agency must maintain the written dual employment request. When the dual employment is within the same agency, that agency must maintain a written dual employment request for each dual employment arrangement.

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19-714. GOVERNMENT EMPLOYEES INTERCHANGE PROGRAM.

SCOPE AND PURPOSE

This Regulation governs the authority for administering an interchange program for government employees to facilitate short term assignments between or among federal, state, or local governments.

19-714.01. STATEMENTS OF POLICY.

A. The Department of Administration has delegated to the State Human Resources Director the authority to administer an Interchange of Government Employees Program as provided in § 8-12-60 of the South Carolina Code of Laws.

B. Agencies should refer to the Government Employees Interchange Program guidelines developed by the Division of State Human Resources (DSHR) for instructions on preparing an interchange agreement.

19-715. EMPLOYEE PERFORMANCE EVALUATION SYSTEMS.

SCOPE AND PURPOSE

This Regulation governs the establishment and administration of employee performance evaluation systems for employees.

19-715.01. STATEMENTS OF POLICY.

A. The Division of State Human Resources (DSHR) shall develop an EPMS model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's EPMS policy which includes a Substandard Performance process.

B. Each agency shall develop an Employee Performance Management System that functions as an effective management tool within the agency, supports continuous communication between supervisors and employees, and provides a sound process for the evaluation of the performance and productivity of its employees.

C. Teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments at post-secondary educational institutions, including any branch campuses, shall not be covered by these Regulations but shall be governed by § 8-17-380 of the South Carolina Code of Laws.

D. An employee or an employee whose position is exempt from the State Employee Grievance Procedure Act is also exempt from the Employee Performance Management System. However, these employees may be given annual performance evaluations.

E. The State Human Resources Director shall have the authority to make exceptions to these Regulations.

19-715.02. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES.

A. A performance review date is the first day which marks the beginning of a new review period. If an employee does not receive a performance evaluation prior to the performance review date, the employee shall receive a "meets performance requirements" rating by default.

B. In Probationary Status (*Refer to Section 19-704.*)

1. Upon initial employment or reemployment, the performance review date shall be established as:

- a. Twelve months from the date of an initial employment or reemployment;
- b. The academic year for instructional personnel; or
- c. Not more than two full academic years duration for faculty at State technical colleges.

2. The performance review date for a probationary employee who is promoted, demoted, reclassified, experiences an unclassified State title change, or is reassigned or transferred to a new class or unclassified State title shall be established as:

- a. Twelve months from the date of the promotion, demotion, reclassification, or reassignment or transfer to a new class or unclassified State title change for non-instructional personnel;
- b. The academic year duration from the date of the promotion, demotion, reclassification, or reassignment or transfer to a new class or unclassified State title for teachers; or
- c. Not more than two full academic years duration from the date of the promotion, demotion, unclassified State title change, or reassignment or transfer to another unclassified State title for faculty at State technical colleges.

3. Exception - At the discretion of the agency head or his designee, up to six months of continuous satisfactory service in the previous class or unclassified State title may be counted toward the probationary period in the new class or unclassified State title which would result in a reduction in the length of the employee's performance review period.

C. In Trial Status (*Refer to Section 19-704.*)

1. A covered employee who is promoted, demoted, reclassified, reassigned, or transferred to a position or experiences an unclassified State title change in which he has not held permanent status in the class or unclassified State title shall have the performance review date reestablished six months from the date of the action.

2. An employee who is in a trial status and has had the trial period extended shall have the performance review date advanced up to 90 calendar days for the time period such extension is in effect.

3. Exception - An employee who is promoted and, prior to attaining permanent status in the class with a higher State salary range, or unclassified State title having a higher State salary range or higher level job duties or responsibilities, is demoted to the same class or unclassified State title from which promoted, shall retain the original performance review date established in the class with a lower State salary range, or unclassified State title having a lower State salary range or lower level job duties or responsibilities.

D. Covered Employees with Permanent Status in the Class or Unclassified State Title

If a covered employee with permanent status in the class or unclassified State title is promoted, demoted, reclassified; experiences an unclassified State title change; or is reassigned or transferred to a new class or unclassified State title in which the employee has previously completed a probationary or trial period, the employee retains permanent status in the class or unclassified State title and is not placed in a probationary or trial status. Instead, the employee's performance review date is reestablished six months from the date of the promotion, demotion, reclassification, reassignment, or transfer.

E. A covered employee's performance review date shall be changed for the following reasons:

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1. If an employee is on approved leave with or without pay for more than 30 consecutive workdays, the employee's performance review date may be advanced up to 90 days.

2. An employee who receives a "Warning Notice of Substandard Performance," may have the performance review date advanced to coincide with the "Warning Notice of Substandard Performance" dates.

3. An employee's performance review date may be adjusted due to promotions, demotions, reclassifications, reassignments, transfers, or unclassified State title changes, as provided in Section 19-715.

4. An employee who transfers to a position in the same class in another agency or is reassigned to a position in the same class and agency within six months or less of his review date shall have the performance review date advanced six months from the date of the transfer or reassignment.

5. An employee's performance review date may be adjusted when an agency adopts a universal performance review date in its written EPMS policy.

6. An employee, who is promoted or reclassified upward and prior to attaining permanent status in the class with a higher State salary range or in the unclassified State title having a higher State salary range or higher level of job duties or responsibilities, and is demoted or reclassified downward to the same class or unclassified State title from which promoted or reclassified upward, shall retain the original performance review date established in the class with a lower State salary range or unclassified State title having a lower State salary range or lower level of job duties or responsibilities.

F. A covered employee's performance review date shall not be changed for the following reasons:

1. An employee who transfers to a position in the same class in another agency or is reassigned to a position in the same class and agency who is more than six months from his review date shall not have the performance review date advanced six months from the date of the transfer or reassignment.

2. When a class is reallocated, an employee in that class shall not have the performance review date reestablished.

3. An employee who receives an in-band increase or decrease within the current class shall not have the performance review date reestablished.

19-715.03. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES FOR EMPLOYEES IN THE EXECUTIVE COMPENSATION SYSTEM.

A. For Employees Covered by the State Employee Grievance Procedure Act

Upon completion of a probationary or trial period, the performance review date of a covered employee in the Executive Compensation System shall be reestablished on July 1.

B. Employees Exempt From Coverage by the State Employee Grievance Procedure Act

Annual performance evaluations shall be completed by July 1 for employees in the Executive Compensation System who are exempt from coverage by the State Employee Grievance Procedure Act. Such employees do not serve a probationary period or a trial period.

C. Exception – The performance review date for the above categories of employees shall be July 1, unless the agency adopts a universal performance review date in its written EPMS policy.

19-715.04. ESTABLISHING AND MAINTAINING PERFORMANCE REVIEW DATES FOR AGENCY HEADS.

Annual performance evaluations shall be completed by July 1 for agency heads.

19-716. STAFF DEVELOPMENT AND TRAINING.**SCOPE AND PURPOSE**

This Regulation governs staff development and training programs for agencies but does not affect sabbatical leave for academic personnel.

19-716.01. STATEMENTS OF POLICY.

A. An agency may sponsor training for employees to improve or secure those skills necessary for the efficient and effective operations of the agency and to ensure uniformity in the administration of staff development and training programs throughout the State service.

B. The agency head or his designee shall be responsible for the administration of staff development and training within the agency.

19-716.02. EDUCATIONAL LEAVE.

An employee is encouraged to schedule classes during off-duty hours, whenever possible. When a class cannot be scheduled during off-duty hours, the agency may adjust the employee's work schedule, if doing so will not interfere with normal efficient operations of the agency. When a class cannot be scheduled during off-duty hours, and the agency cannot feasibly adjust the work schedule of an employee, an employee may be allowed to take annual leave or be granted leave without pay in order to attend classes.

19-716.03. REQUIRED COURSES.

An agency may require an employee to take a specific course that will help improve the employee's performance in the present position or acquire skills necessary to perform additional job duties to meet agency needs. If required, the agency will then pay all costs of the course, including tuition, fees, books, and examinations. An agency shall not pay for courses required to attain nor to maintain a professional license unless related to the performance of the employee's job duties. Attendance at required courses may constitute work time.

19-716.04. TUITION ASSISTANCE.

A. Agencies may provide tuition assistance to employees based on the guidelines recommended by the Division of State Human Resources (DSHR) and approved by the Department of Administration.

B. When staff development and training needs cannot be accomplished within the Tuition Assistance Guidelines, the agency may submit a proposal to the Department of Administration for approval.

1. Approval of the proposal by the Department of Administration must precede the selection of employees for training. Each proposal shall include the following information:

- a. Program justification based on agency needs;
- b. Description of the courses;

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- c. All classes and the number of positions in each class in the requested program;
- d. Fiscal year cost estimates for participation in the requested program; and
- e. A service commitment and payback agreement.

2. Except as provided above, any other forms of educational assistance for employees or non-employees may not be given by agencies unless authorized by statute or by the Department of Administration.

19-717. DISCIPLINARY ACTIONS.

SCOPE AND PURPOSE

This Regulation governs the administration of progressive discipline for employees in full-time equivalent (FTE) positions.

19-717.01. STATEMENTS OF POLICY.

A. The Division of State Human Resources (DSHR) shall develop a progressive discipline model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's progressive discipline policy.

B. Each agency shall develop a progressive discipline policy and establish procedures that will ensure timely and equitable treatment of employees' behavioral deficiencies and breaches of conduct.

C. Whenever possible, coaching and counseling should precede any disciplinary action.

D. Each agency's progressive discipline policy should provide for the following types of disciplinary actions:

- 1. Oral Reprimand
- 2. Written Reprimand
- 3. Suspension
- 4. Termination

An agency may also use reassignments, reclassifications, unclassified State title changes, and demotions as types of disciplinary actions.

E. All suspensions shall be without pay.

19-718. STATE EMPLOYEE GRIEVANCES AND APPEALS.

SCOPE AND PURPOSE

This Regulation sets forth the procedures for grievances and appeals under the State Employee Grievance Procedure Act (the Act), codified at § 8-17-310 through § 8-17-370 of the South Carolina Code of Laws, as amended.

19-718.01. STATEMENTS OF POLICY.

A. The Division of State Human Resources (DSHR) shall develop a grievance model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's grievance policy.

B. Each agency shall develop a grievance policy and establish procedures that will ensure timely and equitable treatment for the review of employee grievances.

C. All covered employees as defined in §8-17-320 (7) of the South Carolina Code of Laws, as amended, are eligible to initiate a grievance or an appeal as specified in the Act. The State Employee Grievance Procedure Act does not apply to non-covered employees.

D. Teaching and research faculty, professional librarians, academic administrators, and all other persons holding faculty appointments at post-secondary educational institutions, including any branch campuses, shall not be covered by these Regulations but shall be governed by § 8-17-380 of the South Carolina Code of Laws.

E. No employee shall be disciplined or otherwise prejudiced in employment for exercising rights or testifying under the Act.

19-718.02. INTERNAL AGENCY GRIEVANCE PROCEDURES.

A. Each notice of an employment action by an agency that may constitute a grievance under the Act should be in writing. A voluntary acceptance of such an action on the part of a covered employee should also be in writing. The notice must advise the covered employee of the action taken and, except in cases where the action is voluntary as evidenced by a signed statement by the covered employee, should advise of the covered employee's right to initiate a grievance.

B. Each agency shall establish written internal agency grievance procedures. All provisions shall comply fully with the Act and, as provided for in the Act, be submitted to DSHR for approval.

C. Each agency shall ensure that each covered employee is afforded access to a copy of the agency's internal agency grievance procedures.

D. Each agency shall maintain documentation pertaining to grievances filed by employees. Such information must be made available upon request by DSHR.

E. Failure by the agency to issue a final decision within 45 calendar days is considered an adverse decision and allows the covered employee to proceed with an appeal to the State Human Resources Director after 45 calendar days, but no later than 55 calendar days from the initial date the grievance was filed within the agency.

19-718.03. COVERED EMPLOYEES AND THEIR REPRESENTATIVES.

A. "Covered employee" means a full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position who has completed the probationary period and has a "meets" (or equivalent) or higher overall rating on the employee's performance evaluation and who has grievance rights. Instructional personnel are covered upon the completion of one academic year except for faculty at State technical colleges of not more than two full academic years' duration. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees in positions such as temporary, temporary grant, or time-limited employees who do not have grievance rights.

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B. Throughout the grievance and appeal process, each covered employee may be represented and advised by counsel or other representative or be self-represented as provided by § 8-17-330 of the South Carolina Code of Laws.

C. The Act exempts certain employees from its provisions as noted in § 8-17-370 of the South Carolina Code of Laws.

19-718.04. GRIEVANCES.

A. Grievable adverse actions shall include:

1. Terminations;
2. Suspensions;
3. Involuntary reassignments in excessive of thirty (30) miles from the prior work station;
4. Demotions;
5. Punitive reclassifications where the agency, in the case of a grievance, or the State Resources Director, in the case of an appeal, determines that there is a material issue of fact that the action was solely done to penalize the covered employee. However, reclassifications, reassignments, and transfers within the same state salary range are not considered to be grievable or appealable;
6. Promotions, in instances where the agency, or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether or not an agency has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the employee had known of the promotional opportunity. When an agency promotes an employee one organizational level above the promoted employee's former level, however, that action is not a grievance or appeal for any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be considered grievable or appealable;
7. Salary decreases based on performance as the result of an Employee Performance Management System (EPMS) evaluation; and
8. Reduction in Force but only if the agency, or as an appeal if the State Human Resources Director, determines that there is a material issue of fact that the agency inconsistently or improperly applied its reduction in force policy or plan.

B. A covered employee must initiate a grievance in writing internally with the agency within 14 calendar days of the effective date of the employment action in accordance with the agency's grievance policy.

C. The following are some examples of employment actions that do not constitute a basis for a grievance or an appeal:

1. A covered employee who voluntarily resigns or voluntarily accepts a demotion, reclassification, transfer, reassignment, or salary decrease shall waive any and all rights to file a grievance or an appeal concerning such actions and the covered employee can rescind such voluntary actions only if the agency head or the agency head's designee agrees;

2. A covered employee whose position is reclassified to a class with a lower salary range shall not have the right to file a grievance or an appeal concerning the reclassification to the State Human Resources Director unless a determination is made that a material issue of fact exists concerning a punitive reclassification;

3. A covered employee who is promoted, reclassified to a higher salary range, or moved to an unclassified position with a higher rate of pay and subsequently demoted prior to completing the trial period in the class with the higher salary range or higher rate of pay shall not have the right to file a grievance or an appeal concerning the demotion, unless such demotion is to a class with a lower salary range or lower rate of pay than the position in which the employee was serving prior to promotion, reclassification, or movement to an unclassified position with a higher rate of pay;

4. A covered employee who is promoted or moved to an unclassified position with a higher rate of pay and subsequently receives a reduction in pay prior to completing the trial period in the position with the higher salary range or higher rate of pay shall not have the right to file a grievance or an appeal concerning the reduction in pay, unless the action results in a lower rate of pay than that which the employee was receiving prior to the promotion or movement to an unclassified position with a higher rate of pay;

5. A covered employee who receives an additional job duties or responsibilities salary increase, and subsequently has the additional job duties or responsibilities which justified the salary increase taken away prior to completing six months of service with the additional job duties or responsibilities, shall not have the right to file a grievance or an appeal concerning a salary reduction equivalent to the amount of the additional job duties or responsibilities increase.

19-718.05. APPEALS TO THE STATE HUMAN RESOURCES DIRECTOR.

A. If a covered employee is not satisfied with the agency's final decision concerning his grievance, he may appeal, after all administrative remedies to secure relief within the agency have been exhausted, to the State Human Resources Director who will determine whether to dismiss the appeal or remand or forward the appeal for further action.

B. A covered employee who wishes to appeal the final decision of the agency to the State Human Resources Director shall file an appeal within ten calendar days of receipt of the decision from the agency head or his designee or within 55 calendar days after the employee filed the grievance with the agency, whichever occurs later. The covered employee or the employee's representative shall file the request in writing with the State Human Resources Director. Failure to file an appeal with the State Human Resources Director within ten calendar days of receipt of the agency's final decision or 55 calendar days from the initial grievance, whichever occurs later, constitutes a waiver of the right to appeal. The time periods for an appeal to the State Human Resources Director may not be waived.

C. The Division of State Human Resources shall develop standard forms to be used in all appeal procedures.

D. Upon receipt of an appeal from a covered employee, the State Human Resources Director shall:

1. Acknowledge receipt of the appeal and require that the covered employee submit a standard appeal application form;

2. Upon receipt of the standard appeal application form, notify and request that the agency furnish the State Human Resources Director a copy of all records, reports, and documentation of the earlier proceedings on the grievance within 15 calendar days following the request. Extensions may be granted in extenuating circumstances; and

3. Determine whether the appeal is timely and complies with the jurisdictional requirements of the Act.

E. If the State Human Resources Director determines that the appeal is untimely or fails to comply with the requirements of the Act, he will notify the covered employee or his representative that the appeal is denied and no further action will be taken concerning the appeal. As a result of the State Human Resources Director's decision, the covered employee may request reconsideration within 30 calendar days from notification of the decision. A notice of appeal seeking appellate review of the decision may be made by the covered employee to the Administrative Law Court as provided in Sections 1-23-380 and 1-23-600 (D) of the S.C. Code of Laws.

F. If the State Human Resources Director determines that additional action by the agency is necessary and appropriate, he may remand the appeal to the agency.

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G. If the State Human Resources Director determines that the covered employee has pending related criminal charges against him, the appeal process may be held in abeyance pending the outcome of those charges at the request of the covered employee or the agency. If the appeal is held in abeyance, the covered employee or his representative must notify DSHR within 30 calendar days after the disposition of the charges has been determined in order to preserve the covered employee's right to further pursue his appeal. Failure to contact DSHR within those 30 calendar days will be deemed a waiver and abandonment of the appeal. Evidence of the dismissal, acquittal, or non-prosecution of the related criminal charges shall be inadmissible in the employee's appeal pursuant to applicable law.

H. At the request of the covered employee or the agency, the State Human Resources Director may place an appeal in abeyance in extenuating circumstances.

I. If the State Human Resources Director determines that the appeal is timely and complies with the requirements of the Act, he will forward the appeal either (1) to the mediator-arbitrator for mediation-arbitration or (2) after the mediation process has been completed, to the designated panel of the State Employee Grievance Committee [Committee] and Committee Attorney for a hearing, whichever is appropriate based on the type of adverse employment action.

J. When an appeal is forwarded to a designated Committee panel, the State Human Resources Director will notify the covered employee or their representative and the agency with a statement as to the issues which have been presented by the parties for presentation before the Committee for decision.

K. The official record on each appeal and all related correspondence and documents shall be maintained in a confidential file by DSHR.

L. The State Human Resources Director will send the notices and correspondence pertaining to an appeal directly to the parties or their representatives.

19-718.06. MEDIATION PRIOR TO STATE EMPLOYEE GRIEVANCE COMMITTEE-HEARINGS.

A. "Mediation" means an alternative dispute resolution process whereby a mediator who is an impartial third party acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. The process is informal and nonadversarial with the objective of helping the disputing parties reach a mutually acceptable agreement.

B. Once an appeal has been made to the State Human Resources Director and has been determined to meet the jurisdictional requirements for an appeal to be forwarded to the Committee, the State Human Resources Director shall appoint a mediator to the appeal. The following adverse employment actions will be forwarded to the mediator: terminations, salary decreases based on performance, demotions, suspensions for more than ten days, and reductions in force when the State Human Resources Director determines there is a material issue of fact regarding inconsistent or improper application of the agency's reduction in force plan or policy.

C. The mediator:

1. Shall review the documents which have been submitted by each party to the State Human Resources Director and schedule time(s) and location(s) to meet with both parties, jointly or independently, to attempt to resolve the matter;

2. Has sole authority to determine whether the meeting includes the parties with their representatives, jointly or independently;

3. Should determine when the mediation is not viable, that an impasse exists, or that the mediation should end. The mediation cannot be unilaterally ended without the permission of the mediator; and

4. Should notify each party in writing, as to the status of the mediation process no later than ten calendar days prior to the scheduled Committee hearing, when the parties have not resolved the matter and a written agreement has not been signed.

D. Mediation Conferences

1. Mediation conferences are confidential and limited to no more than three representatives, including legal counsel and the covered employee, for each party. An observer who has been assigned to conduct mediations for DSHR may attend for training purposes if both parties to the mediation concur.

2. The parties or their representatives attending a mediation conference must have full authority to negotiate and recommend settlement.

3. Each covered employee may have representation at the mediation conference and either the covered employee or his representative must attend. If neither the covered employee nor his representative attend a conference, the covered employee is deemed to have waived his rights to pursue the appeal further unless there is reasonable justification for the failure to attend the conference. The State Human Resources Director shall determine whether or not reasonable justification exists based on documents submitted by the parties on this issue and based on other information available relating to the conference. Documents submitted by the parties on the issue of reasonable justification must be received by DSHR no later than 14 calendar days from the date of the scheduled conference. Denial of reasonable justification by the State Human Resources Director concludes the processing of the covered employee's appeal.

4. If the appeal is resolved, the mediator will assist the parties in preparing a written agreement to reflect the terms of the resolution and may consult with the attorney for DSHR to assist in drafting the agreement.

E. Confidentiality

1. Any discussions by any of the parties concerned during the mediation process shall be kept confidential and shall not be used or referred to during subsequent proceedings.

2. The mediator may not be compelled by subpoena or otherwise to divulge records or discussions or to testify in regard to the mediation in any adversary proceeding or judicial forum.

3. All records, reports, documents, discussions, and other information received by the mediator while serving in that capacity are confidential.

19-718.07. APPEALS FORWARDED TO THE STATE EMPLOYEE GRIEVANCE COMMITTEE.

A. If a resolution through mediation as required by Section 19-718.06 of the State Human Resources Regulations cannot be accomplished, the State Human Resources Director shall forward the appeal to the designated panel of the Committee.

B. No more than three representatives, including legal counsel and the covered employee, may be designated by either party to be present during Committee hearings.

C. Witnesses

1. Notice - After an appeal has been determined to be appealable to the Committee and has been placed on the Committee's docket, the covered employee and the agency, or their designated representatives, shall exchange witness lists which must be received by the other party no later than five calendar days prior to the hearing. The postponement of a hearing does not reinstate any time frame that has already elapsed at the time of

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the request to reschedule. Witness lists which have not been exchanged as required by this provision and witnesses not included on a properly exchanged list will be excluded at the hearing unless the Committee finds that there has been excusable neglect or that the witness(es) should be admitted in the furtherance of justice.

2. Character Witnesses - No more than three character witnesses for each side will be permitted to testify before the Committee when evidence of character is relevant to the issues. A character witness is defined as a witness offered solely for the purpose of presenting testimony which bears on the positive or negative general character of the covered employee, i.e., the covered employee's reputation for truthfulness, peaceful or violent manner, or other considerations of character which have a bearing on the matter before the Committee.

3. Subpoenas - Only the Committee Chairman or his designee is authorized to issue subpoenas for witnesses at the request of either party. In the event that either party in an appeal has difficulty in obtaining a witness's agreement to testify, such party may request in writing the issuance of a subpoena which must be received by DSHR no later than ten calendar days before the date of the hearing. The postponement of a hearing does not reinstate any time frame that has already elapsed at the time of the request to reschedule. The request for a subpoena must include the name of the witness. The service of the subpoena is the responsibility of the requesting party. When any person fails to comply with a subpoena, the requesting party is responsible for the pursuance and cost of any judicial enforcement of that subpoena. Any reasonable expenses incurred by a subpoenaed witness shall be paid by the requesting party.

4. Sequestration of Witnesses - Witnesses other than representatives shall be sequestered and are prohibited from being in the hearing room whether the appeal is heard in a public hearing or heard in executive session. Exceptions to this prohibition include during preliminary comments, the Committee's opening statement, and that witness's testimony.

5. Depositions de bene esse - The testimony of a witness may be submitted into evidence in the form of a deposition de bene esse when the attendance of the witness whose testimony is required cannot be had (a) by reason of (i) extreme age, (ii) sickness or infirmity, or (iii) indispensable absence on public official duty, (b) as a result of verification of his intended absence from the State before the appeal can be heard by the designated Committee panel, or (c) when such witness may be without the limits of the State. If the parties cannot agree to the use of a deposition de bene esse, the party desiring to submit the deposition de bene esse may request permission from the Committee Chairman or his designee and the Committee Attorney to submit the deposition de bene esse. The party opposing the submission will be permitted an opportunity to respond to the request. The request and the response may be made either in writing before or verbally at the hearing. When the parties agree upon, or a party's request is granted for the use of, a deposition de bene esse, notice must be exchanged as to the time of the deposition de bene esse to allow all interested parties to attend and participate. A copy of this notice should be sent to DSHR. No other types of depositions, including discovery depositions, are permitted.

D. Documents

1. Submission to DSHR and Exchange by the Parties - Any records, reports, and documentation submitted by either party to be forwarded to the Committee prior to the hearing must be received by DSHR no later than 15 calendar days prior to the hearing. The postponement of a hearing does not reinstate any time frame that has already elapsed at the time of the request to reschedule. Those documents submitted by both parties will be provided by DSHR to committee members prior to the hearings and considered to be the record during the hearing and marked into evidence as Committee Exhibit I. Each covered employee granted a hearing before the Committee will receive a copy of the records, reports, and documentation submitted by the agency. In like manner, a copy of any records, reports, and documentation filed by a covered employee will be sent to the agency.

2. Subpoenas - Only the Committee Chairman or his designee is authorized to issue subpoenas for files, records, and documentation on the grievance at the request of either party. In the event that either party in a case has difficulty in obtaining the production of files, records, and documentation on the grievance, such party may

request in writing the issuance of a subpoena which must be received by DSHR no later than ten calendar days before the date of the hearing. The postponement of a hearing does not reinstate any time frame that has already elapsed at the time of the request to reschedule. The request for a subpoena must include a description sufficiently specific to identify the documents in question and the name of the custodian of the documents in question. The service of the subpoena is the responsibility of the requesting party. When any person fails to comply with a subpoena, the requesting party is responsible for the pursuance and cost of any judicial enforcement of that subpoena. Any reasonable expenses incurred in the production of the documents shall be paid by the requesting party. Subpoenaed documents shall be received by the requesting party no later than five calendar days prior to the hearing or by the date indicated by the requesting party. Motions, by either party, to quash a subpoena must be made to the Administrative Law Court.

3. Committee Exhibit I

a. The State Human Resources Director shall arrange for the reproduction of records, reports, and documentation timely submitted by both parties and make this information available, prior to the date of the hearing, to the designated Committee panel and Committee Attorney for that hearing.

b. The documents transmitted by the State Human Resources Director to the designated Committee panel and Committee Attorney must be marked into evidence as "Committee Exhibit I" during the Committee Chairman's opening statement at the beginning of the hearing unless excluded by the Committee Attorney based on a prior objection raised by either party.

E. Panel Hearings

1. Scheduling and Notice - The State Human Resources Director shall establish a date, time, and place for the hearing of each appeal and provide reasonable notice to the covered employee, agency, designated Committee panel, and Committee Attorney.

2. Continuances and Postponements - Prior to the commencement of the hearing, the State Human Resources Director has the authority to grant a postponement based upon extenuating circumstances.

3. Executive Session Hearings - All hearings before the State Employee Grievance Committee shall be in executive session unless the employee requests a public hearing in accordance with the Freedom of Information Act prior to the designated Committee panel voting to go into executive session. If the hearing is held in executive session, only the designated Committee panel, the parties involved in a hearing, the Committee Attorney, and persons approved by the designated Committee Chairman may attend.

4. Committee Members

a. The Committee shall consist of at least 18 and not more than 24 members who must be appointed by the Director of the Department of Administration in accordance with the Act.

b. The State Human Resources Director may divide the Committee into panels of five members to sit at hearings and designate a member to serve as the presiding officer and a member to serve as secretary at all panel hearings.

c. A chairman shall be elected from the membership of the Committee each year after approval of membership of new members by the Director of the Department of Administration. A meeting for election of a chairman shall be held as soon as practicable after appointments are made.

d. A quorum of a panel shall consist of at least three Committee members. No hearings may be conducted without a quorum.

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e. Whenever an appeal before the Committee is initiated by or involves an employee of an agency of which a Committee member also is an employee or involves another impermissible conflict of interest, the Committee member is disqualified from participating in the hearing.

5. Committee Attorney

a. The Department of Administration is authorized to request assignment by the Attorney General of one or more of his staff attorneys admitted to practice law in South Carolina to serve in the capacity of Committee Attorney. If the Attorney General is not able to provide sufficient legal staff for this purpose due to an impermissible conflict of interest, the Department of Administration, with the approval of the Attorney General, is authorized to secure other qualified attorneys to serve as Committee Attorney.

b. The Committee Attorney shall determine the order and relevance of the testimony and the appearance of witnesses, and shall rule on all motions and all legal issues.

6. Attendance by the Parties

a. Panel hearings will be conducted on the date and at the time scheduled unless the Committee, acting collectively or through its designated Committee Chairman, upon commencement of a hearing, grants a postponement based upon extenuating circumstances.

b. Each covered employee may have representation at the panel hearing and either the covered employee or his representative must attend. If neither the covered employee nor his representative attend the panel hearing, the covered employee is deemed to have waived his rights to pursue the appeal further unless there is reasonable justification for the failure to attend the panel hearing. The State Human Resources Director shall determine whether or not reasonable justification exists based on documents submitted by the party on this issue and based on other information available relating to the panel hearing. Documents submitted by the party on the issue of reasonable justification must be received by DSHR no later than 14 calendar days from the date of the scheduled panel hearing. Denial of reasonable justification by the State Human Resources Director concludes the processing of the covered employee's appeal.

c. If the agency fails to appear at the panel hearing without reasonable justification, the designated Committee panel will base its decision on a review of Committee Exhibit I and a presentation of the case by the covered employee.

7. Administrative Assistance and Recordings of Hearings

a. The State Human Resources Director shall provide to the Committee from the resources of DSHR such administrative and clerical services as may be required.

b. All proceedings before the Committee shall be recorded by DSHR. The recording shall be preserved by DSHR.

8. Submission of Witness and Representative Lists to Committee - At the beginning of the hearing, each party shall provide to the secretary of the designated Committee panel a list of representatives and witnesses. Representatives who will testify must be listed as both a representative and a witness. Witness lists which have not been exchanged as required by Section 19-718.07 C. 1. of the State Human Resources Regulations and witnesses not included on a properly exchanged list will be excluded at the hearing unless the Committee finds that there has been excusable neglect or that the witness(es) should be admitted in the furtherance of justice.

9. Conduct of Hearings - The presiding Committee Chairman shall conduct the grievance hearing in an equitable, orderly, and expeditious fashion. The Committee will give effect to rules of privilege recognized by law. The parties shall be bound by the decisions of the presiding officer or Committee Attorney insofar as such hearings are concerned.

10. Opening Statements and Order of Presentation of the Case

a. The designated Committee Chairman shall open the hearing by explaining the procedures to be followed in the hearing.

b. Each party shall be given an opportunity to make an opening statement.

c. The covered employee shall present his case first, followed by the agency.

11. Direct and Cross Examinations

a. The testimony of witnesses shall be under oath or affirmation.

b. Each party shall have the right to examine and cross-examine witnesses, as appropriate.

c. The designated Committee Chairman, the Committee Attorney, or any member of the designated Committee panel may direct questions to any party or witness at any time during the proceedings.

d. Each party may object to testimony, questions, or documents.

12. Evidentiary Matters - Evidentiary matters as governed by the South Carolina Administrative Procedures Act will apply in hearings before the Committee.

13. Interpretations from DSHR - The designated Committee Chairman of a designated Committee panel may request information or assistance in interpretations of rules and Regulations from the State Human Resources Director.

14. Closing Statement

a. Before closing the hearing, the designated Committee Chairman shall allow the parties to make a closing statement.

b. The covered employee will have the option of closing first or last.

F. Committee Deliberations and Written Committee Decisions

1. The designated Committee panel shall retire into executive session, without the parties present, to receive legal advice from the Committee Attorney and consider the evidence. The Committee Attorney may be present during the Committee's deliberations on its decision only upon the request of the designated Committee Chairman. No vote by the designated Committee panel may be taken in executive session except to come out of executive session.

2. Each member of the designated Committee panel shall vote on the merits of the appeal and the vote will be recorded.

3. Decisions of the Committee shall be determined by a simple majority of those members who heard the appeal.

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4. Within 20 calendar days of the conclusion of the hearing, the designated Committee panel shall make its final written decision.

5. The final decision of the Committee as it relates to an appeal shall include the (1) findings of fact, (2) statements of policy and conclusions of law, and (3) the Committee's decision.

6. As governed by the provisions of the Act, the Committee may sustain, reject, or modify a grievance hearing decision of an agency.

7. Any member agreeing with the majority decision but differing with the rationale may prepare a concurring decision. Any member voting in the minority may prepare a dissenting opinion.

8. The Committee Attorney or the attorney for DSHR or both may assist the Committee in the preparation of its findings of fact, statements of policy, and conclusions of law.

9. The decision of the Committee shall be transmitted to the State Human Resources Director for notification to the covered employee and the agency or their representatives.

10. As a result of this final written decision, either the covered employee or the agency may request reconsideration within 30 calendar days from receipt of the decision.

11. The designated Committee panel shall request assistance from the Committee Attorney or the attorney for DSHR or both in the preparation of a written response to a request for reconsideration.

12. If no request for reconsideration is made or when a response is made to a request for reconsideration, the Committee decision is final in terms of administrative review.

19-718.08. APPEALS FORWARDED TO A MEDIATOR-ARBITRATOR.

A. "Mediation-arbitration" means an alternative dispute resolution process that provides for the submission of an appeal to the mediator-arbitrator, an impartial third party who conducts conferences to attempt to resolve the grievance by mediation and render a decision that is final and binding on the parties if the appeal is not mediated.

B. The State Human Resources Director shall forward to a mediator-arbitrator all appeals which meet jurisdictional requirements and relate to the appeal of the following adverse employment actions: lack of promotional consideration and punitive reclassifications when the State Human Resources Director determines there is a material issue of fact regarding these issues, suspensions for ten days or fewer, and involuntary reassignments. In these cases, the arbitration decision is final in terms of administrative review. The provisions of the S.C. Administrative Procedures Act do not apply in the mediation-arbitration proceedings.

C. Selection and Assignment of the Mediator-Arbitrator

1. The mediator-arbitrator must be assigned by the State Human Resources Director and shall serve as an impartial third party to hold conferences to encourage and facilitate the resolution of the appeal and, if the appeal is not resolved, issue a decision which determines whether the covered employee substantiated that the agency's decision was not reasonable.

2. The State Human Resources Director shall maintain a pool of qualified mediator-arbitrators trained by DSHR in alternative dispute resolution, grievance, and related human resources issues.

3. The State Human Resources Director shall have the discretion to assign either two mediator-arbitrators, one to serve as mediator during the mediation phase and one to serve as arbitrator during the arbitration phase, or one mediator-arbitrator to serve as both mediator and arbitrator.

D. Mediation-Arbitration Conferences

1. The mediator-arbitrator shall review the documents which have been submitted by each party to the State Human Resources Director and shall schedule time(s) and location(s) to meet with both parties, jointly or independently.

2. No more than three representatives, including legal counsel and the covered employee, may be designated by either party to be present during mediation-arbitration conferences. An observer who has been assigned to conduct mediation-arbitrations for DSHR may attend for training purposes if both parties to the mediation-arbitration conference concur.

3. Each covered employee is entitled to representation at the conference and either the covered employee or his representative must attend. If neither the covered employee nor his representative attend a conference, the covered employee is deemed to have waived his rights to pursue the appeal further unless there is reasonable justification for the failure to attend the conference. The State Human Resources Director shall determine whether or not reasonable justification exists based on documents submitted by the parties on this issue and based on other information available relating to the conference. Documents submitted by the parties on the issue of reasonable justification must be received by DSHR no later than 14 calendar days from the date of the scheduled conference. Denial of reasonable justification by the State Human Resources Director concludes the processing of the covered employee's appeal.

4. If the agency fails to appear at a conference without reasonable justification, the mediator-arbitrator will base an arbitration decision on a review of the documents which have been submitted by each party to the State Human Resources Director and a presentation of the case by the covered employee.

5. The parties or their representatives attending a conference must have full authority to negotiate and recommend settlement.

E. Mediation Phase

1. The mediator-arbitrator has sole authority to determine whether conferences during the mediation phase include the parties with their representatives, jointly or independently.

2. Initially, the mediator-arbitrator will attempt to assist the parties as a mediator in reaching a voluntary mutual resolution of the appeal.

3. The mediation phase cannot be unilaterally ended nor the arbitration phase begun without the permission of the mediator-arbitrator.

4. If the dispute is resolved, the mediator-arbitrator will assist the parties in preparing a written agreement to reflect the terms of the resolution and may consult with the attorney for DSHR to assist in drafting the agreement.

F. Arbitration Phase

1. If the mediator-arbitrator determines that the parties are unable to reach a resolution of the appeal by mediation during, but no later than, the 20 calendar days immediately following the initial conference with either

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or both parties, then the mediator-arbitrator shall notify the parties that the arbitration phase will proceed, as appropriate.

2. Procedures for Arbitration Phase

a. During the arbitration phase, the parties will be allowed to submit to the mediator-arbitrator a concise written summary of the relevant issues involved in the appeal, notarized statements, and other additional documents or information. The parties must have provided the other party and the mediator-arbitrator with the written summary of relevant issues, any notarized statements from individuals who have knowledge about the issues on appeal, and other related documents or information concerning the appeal prior to the arbitration conference. The time for the exchange by the parties and submission to the mediator-arbitrator of the written summary of relevant issues, notarized statements, and other related documents or information will be determined by the mediator-arbitrator.

b. During the arbitration phase, the mediator-arbitrator will allow each party a maximum of two hours to present his appeal, with the covered employee presenting his case first. Either the party or one of his representatives shall be designated as the spokesperson during the conference. No testimony will be allowed and others in attendance will not be allowed to speak or ask questions during the presentation of information. The parties may use the designated time to present any oral arguments concerning the issues on appeal. The covered employee may reserve a portion of the two hours to reply to the agency's contentions. This reply is limited only to information presented orally by the agency and shall not exceed one-half of the total time for the presentation of information. In extenuating circumstances, the mediator-arbitrator may increase or decrease the time each party has to present his appeal at the conference during the arbitration phase.

c. The other party and his representatives may be present when a party presents his appeal during the arbitration phase.

d. Conformity to legal rules of evidence shall not be necessary during the arbitration phase.

e. At any time before the mediator-arbitrator makes a final arbitration decision, the mediation phase may be reopened at his initiative, or at his discretion upon request of a party.

f. The mediator-arbitrator shall transmit to both parties a final written decision based on all documents properly submitted by both parties and the oral arguments presented during the arbitration phase within 45 calendar days after the mediator-arbitrator initially meets with either or both parties. This 45-day period may be extended by the State Human Resources Director under extenuating circumstances. When the expiration of this 45-day period occurs during the seven day waiting period required under the Older Workers Benefit Protection Act before a written agreement becomes effective, the State Human Resources Director will extend the 45-day period one day for each day remaining in the seven day waiting period.

g. As a result of this final written decision, either the covered employee or the agency may request reconsideration by the mediator-arbitrator within 30 calendar days from receipt of the decision.

h. The mediator-arbitrator may request assistance from the attorney for DSHR or DSHR staff in the preparation of his final written decision and his written response to a request for reconsideration.

G. Confidentiality

1. The conferences with the parties are confidential and limited to the parties and their representatives, but other persons may attend with the permission of the parties and the mediator-arbitrator.

2. The mediator-arbitrator may not be compelled by subpoena or otherwise to divulge any records or discussions or to testify in regard to the mediation-arbitration in any adversary proceeding or judicial forum.

3. All records, reports, documents, discussions, and other information received by the mediator-arbitrator while serving in that capacity are confidential, except the documents which have been submitted by each party shall be the record during appellate review to the Administrative Law Court.

19-718.09. APPELLATE REVIEW OF ANY FINAL DECISION.

Either party may seek appellate review to the Administrative Law Court from a final decision by the State Human Resources Director denying an appeal or by the State Employee Grievance Committee or mediator-arbitrator.

A. A notice of appeal seeking appellate review to the Administrative Law Court must be initiated within 30 calendar days from receipt of the decision.

B. A notice of appeal seeking appellate review of the final decision may be made by the covered employee to the Administrative Law Court as provided in Sections 1-23-380 (5) (B) and 1-23-600 (D) of the S.C. Code of Laws.

C. Only after an agency submits a written request to DSHR seeking approval of the Department of Administration may the agency file a notice of appeal seeking appellate review to the Administrative Law Court. However, the agency may perfect the appeal only upon approval of the Director of the Department of Administration.

D. The covered employee or the agency who first files the notice of appeal seeking appellate review of a State Employee Grievance Committee decision is responsible for preparation of a transcript and paying the costs of preparation of a transcript of the hearing required for certification of the record to the Administrative Law Court.

E. The record for appellate review of a decision made by a mediator-arbitrator shall be limited to the documents and information which have been submitted by each party and the final written decision of the mediator-arbitrator.

F. The record for appellate review of a decision made by the State Human Resources Director shall be limited to the documents and information which have been submitted by each party and the final written decision of the State Human Resources Director.

G. The covered employee or the agency who first files the notice of appeal seeking appellate review of a final decision by (1) the State Human Resources Director denying an appeal; (2) the State Employee Grievance Committee; or (3) a mediator-arbitrator, is responsible for preparation of a transcript and paying the costs of preparation of a transcript of the hearing required for certification of the record to the Administrative Law Court. In addition, the appealing party is responsible for all costs associated with providing the record on appeal to the Administrative Law Court.

H. Neither the Department of Administration nor DSHR nor the State Human Resources Director nor the Committee nor the mediator-arbitrator may be named in the notice of appeal to the Administrative Law Court. However, any of these entities are entitled to make a motion in the Administrative Law Court to be allowed to intervene to participate in the appeal for appropriate reasons including their interest in defending their policies.

19-718.10. COMPUTATION OF BACK PAY.

A. Reinstatement of pay resulting from a reversed disciplinary action shall be less any other related income received, such as unemployment compensation, workers' compensation, State retirement benefits (only when the employee retires after the disciplinary action occurs and when the income is the result of a termination), and

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wages earned, for the period of time in which the pay was deducted and shall be accomplished in the following manner:

1. The covered employee shall submit to the agency a notarized statement of any wages earned during the interim period of disciplinary action;

2. The agency shall submit a written request for the covered employee's reinstatement of pay and a statement of back pay due, less any other related income, such as unemployment compensation, workers' compensation, State retirement benefits, and wages, to the State Human Resources Director;

3. Any unemployment compensation earned by the employee will be verified by DSHR through the Department of Employment and Workforce. The amount of unemployment compensation provided by the Department of Employment and Workforce will be used in determining the final back pay amount.

4. The computation of back pay must be in accordance with guidelines provided by the Office of the Comptroller General for agencies whose payroll is issued by the Comptroller General. For all other agencies, computation of back pay must be in accordance with applicable agency policies and procedures; and

5. The State Human Resources Director must approve the amount of reinstatement pay due the employee. That approval is not subject to administrative appeal and will constitute the final administrative decision.

B. The above procedure shall be followed in all reversed disciplinary actions.

C. The intent of this Regulation is only to make the employee whole as if the disciplinary action had not occurred.

19-718.11. APPROVAL OF PERSONNEL SETTLEMENTS.

It is the policy of the State Fiscal Accountability Authority that personnel settlement proposals be presented to the State Fiscal Accountability Authority for approval as outlined in the following:

A. In all situations where a personnel settlement has not been negotiated or approved by the Office of the Attorney General under a plan approved by the Office of the Attorney General;

B. In all human resources-related matters, after review and recommendation by the State Human Resources Director, excluding settlements which have been negotiated and approved by the Workers' Compensation Commission, Department of Employment and Workforce, Equal Employment Opportunity Commission, or South Carolina Human Affairs Commission; and

C. In all other situations where specific approval of the State Fiscal Accountability Authority would be necessary to disburse funds mentioned under the settlement proposal. Exception: Personnel Settlements containing lump sum amounts where payment would be supplied by the Insurance Reserve Fund or an agency's Foundation Fund.

1. All personnel settlement proposals shall contain such information as the State Fiscal Accountability Authority or its designee specifies.

2. The State Human Resources Director may review and approve any personnel settlement of \$10,000 or less.

19-719. SEPARATION FROM STATE SERVICE.**SCOPE AND PURPOSE**

This Regulation governs how the State government employment relationship may end.

19-719.01. CONTINUOUS STATE SERVICE AND BREAK IN SERVICE.**A. Continuous State Service**

Continuous State service is service with one or more agencies without a break in service.

B. Break in Service

An employee experiences a break in service when the employee:

1. Separates from State service.

Exception - When an employee moves from a position in which the employee earns both annual and sick leave to a position in which the employee only earns sick leave. All earned sick leave shall be transferred in accordance with Section 19-710.05 A.

2. Moves from one State agency to another and is not employed with the receiving agency within 15 calendar days following the last day worked (or approved day of leave) at the transferring agency.

Exception - Under extenuating circumstances an agency head may approve an extension from 15 calendar days up to but not in excess of six months for an employee in a full-time equivalent (FTE) position to be employed in another FTE position within State government without having a break in service. The approval must be made prior to the employee receiving a lump sum payment for unused annual leave and within 15 days of the last day the employee is in pay status.

3. Remains on leave for a period of more than 12 months.

Exceptions

a. The employee is on a military tour of duty with reemployment rights protected under federal or State law.

b. The employee is participating in the Government Employees Interchange Program as provided in Section 19-714.

c. The employee is an academic personnel at an institution of higher learning on sabbatical leave.

4. Separates from State service as a result of a reduction in force and is not recalled to the original position or reinstated with State government within 12 months of the effective date of the separation.

5. Involuntarily separates from State service and the agency's decision is upheld by the State Employee Grievance Committee or by the courts.

6. Moves from an FTE position to a temporary, temporary grant, or time-limited position. Exception - When an employee in an FTE position moves to a temporary, temporary grant, or time-limited position within 15

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calendar days following the last day worked (or approved day of leave) during the employee's TERI program period, he does not experience a break in service.

19-719.02. RESIGNATION.

A. An employee may resign orally or in writing. Such notification of resignation should be accepted by the agency in the same manner as provided, whether written or oral, and an oral acceptance of a resignation should be generally confirmed in writing. Once an employee's resignation is accepted, it may not be withdrawn, cancelled, or amended without consent of the agency head or his designee.

B. Resignations should be given to provide a minimum of two weeks notice.

C. Any employee who voluntarily submits a written resignation may not grieve or appeal under the State Employee Grievance Procedure Act.

19-719.03. TERMINATION.

For purposes of the State Employee Grievance Procedure Act, termination is the action taken by an agency against an employee to separate the employee involuntarily from employment.

19-719.04. REDUCTION IN FORCE.

A. Statements of Policy

1. The Division of State Human Resources shall develop a reduction in force model policy to assist an agency in its policy development. The Division of State Human Resources must review and approve each agency's reduction in force policy.

2. Each agency shall develop a reduction in force policy. This requirement shall not apply to academic personnel. However, each institution of higher learning or medical institution of education and research shall develop a policy outlining the criteria for a reduction in force for these employees.

3. Technical colleges are required to have a reduction in force policy.

4. Employees on authorized leave are eligible to compete in a reduction in force as if they are not on leave.

5. When a covered employee is assigned lower level responsibilities or demoted as a result of a reduction in force implemented due to loss of funding, the employee's salary may be reduced on the effective date of the reduction in force. The agency head or his designee, at his discretion, may reduce the employee's salary to a salary either between 0%-15% below the employee's current salary or between the employee's current salary and the midpoint of the lower pay band. In exercising this discretion, the agency head or his designee may use the option which results in the greatest cost savings.

(Note: Regulation 19-719.04 A. 5. only applies to decreases in salary as a result of a reduction in force implemented due to loss of funding and is an exception to salary decreases when a covered employee is assigned lower level responsibilities or demoted as listed in Sections 19-705 and 19-706.)

B. Reduction in Force Plan

1. Each agency shall submit a reduction in force plan to DSHR for review and approval for procedural correctness prior to its implementation.

2. A reduction in force plan must include:

a. A reason for the layoff as defined by the agency. These circumstances shall be either agency reorganization, work shortage, loss of funding, or outsourcing/privatization. If the reason for the reduction in force is due to a loss of funding, DSHR will forward a copy of the plan to the Executive Budget Office for concurrence on the budgetary issue prior to final approval.

b. The competitive area(s) in which the reduction in force will apply. Competitive area(s) shall be determined by the agency according to critical needs. Any covered employee affected by a reduction in force shall have bumping rights within a competitive area(s).

c. The competitive group(s) within the competitive area(s) as defined by the agency including any employees in specified competitive area(s).

d. The proposed list of employees to be affected by the reduction in force which includes:

- (1) The age, race, and sex of all employees in the competitive group(s); and
- (2) A preliminary list of employees in each group in retention point order.

e. The efforts that will be made to assist laid off employees to find other employment, including notice to DSHR.

f. A current organizational chart showing the competitive area(s) and competitive group(s).

g. Justification of the use of any retention of necessary qualifications as provided in the agency's reduction in force policy.

3. Implementation

After a reduction in force plan is reviewed and approved by DSHR for procedural correctness and before it becomes effective, an agency representative shall inform affected employees of the following:

- a. The reason for the reduction in force;
- b. The competitive area(s) and competitive group(s);
- c. The effects of the reduction in force upon State benefits;
- d. The assistance offered by DSHR;
- e. The employee's recall rights; and
- f. The method of notification should a job become available.

4. Reduction in Force Rights

a. Any covered employee affected by a reduction in force shall retain covered status and recall rights for a period of one year from the date of separation.

b. Employees who are affected by the reduction in force shall be recalled in inverse order based on retention points should a position become available within the competitive area.

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c. A covered employee who is separated due to a reduction in force shall retain continuous service if the employee is reinstated within one year from the date of separation.

d. An employee who is separated by an agency by a reduction in force and is subsequently reinstated within one year shall have his sick leave restored and shall be given the option of buying back all, some, or none of his annual leave at the rate at which it was paid out.

5. Grievance Rights

A covered employee who is affected by a reduction in force may grieve or appeal the reduction in force under the State Employee Grievance Procedure Act if the appeal is based on inconsistent or improper application of a reduction in force policy or plan.

19-719.05. EXIT INTERVIEWS.

A. Each agency should establish a procedure for obtaining separation information from each employee who separates from State service. This procedure should include an exit interview to reflect the specific reasons for the employee's separation. A reasonable effort should be made to interview the employee to obtain the information.

B. Each agency should maintain and summarize a general file on all exit interviews for review by management.

19-719.06. ANNUAL AND SICK LEAVE UPON SEPARATION.

A. Section 19-709.05 explains the applicable annual leave provisions when an employee separates from State service.

B. Section 19-710.06 explains the applicable sick leave provisions when an employee separates from State service.

19-720. RECORDKEEPING.

SCOPE AND PURPOSE

This Regulation governs the recordkeeping requirements for human resources programs.

19-720.01. STATEMENT OF POLICY.

Each agency shall establish and maintain all records required by State law or the Division of State Human Resources (DSHR) concerning human resources programs.

19-720.02. EMPLOYEE RECORDS.

A. Each agency shall establish and maintain an official human resources file for each employee which shall include, but not necessarily be limited to, the following:

1. Employment application;
2. All human resources actions reflecting the employee's work history with the agency;
3. Documentation directly related to the employee's work record; and

4. All performance evaluations.

(Refer to Section 19-707.02 J. 3.)

B. An employee's official human resources file shall be available for the employee's review upon request.

19-720.03. RECORDS RELEASE.

A. In response to requests for information from human resources records, agencies may provide, pursuant to the Freedom of Information Act, an employee's name, date of employment, title, sex, and race. The determination to disclose other types of information should be made on a case by case basis. Requests for salary information should be answered in accordance with the Freedom of Information Act. *(Refer to Section 19-703.05.)*

B. In responding to requests for information concerning current or former employees by prospective employers under § 41-1-65 of the South Carolina Code of Laws, agencies may provide information as follows:

1. Agencies responding to oral requests for information may disclose an employee's or former employee's dates of employment, pay level, and wage history.

2. Agencies responding to written requests may disclose the following information to which an employee or former employee may have access:

a. Written employee evaluations;

b. Official human resources notices that formally record the reasons for separation;

c. Whether the employee was voluntarily or involuntarily released from service and the reason for the separation; and

d. Information about job performance.

3. Agencies shall not knowingly or recklessly release or disclose false information.

4. Responses to requests under § 41-1-65 of the South Carolina Code of Laws should be considered in conjunction with the Freedom of Information Act.

19-720.04. CENTRAL HUMAN RESOURCES DATA SYSTEM.

Refer to Section 19-701.05.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication October 21, 2016 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 Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3495.

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Affecting Beaufort County

Sprenger Healthcare of Bluffton, Inc. d/b/a Sprenger Healthcare of Bluffton

Construction of a 65 long term care bed nursing facility in Beaufort County at a total project cost of \$13,205,200.

Affecting Horry County

McLeod Loris Seacoast Hospital d/b/a McLeod Seacoast

Addition of a mobile PET/CT to McLeod Loris Seacoast Hospital at a total project cost of \$254,000.

Myrtle Beach Rehabilitation Hospital, LLC

Transfer of 31 inpatient rehabilitation beds from Tidelands Rehabilitation Hospital to Myrtle Beach Rehabilitation Hospital and the addition of 15 rehabilitation beds to create a 46-bed freestanding Comprehensive Medical Rehabilitation Hospital in Horry County at a total project cost of \$24,966,941.

Affecting Laurens County

Clear Skye Medical Holdings, LLC d/b/a Clear Skye Treatment Center of Laurens

Establishment of a new Narcotics Treatment Program in Laurens County at a total project cost of \$88,277.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from October 21, 2016. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

Affecting Aiken County

Amedisys SC, LLC d/b/a Amedisys Home Health of Lexington

Establishment of a Home Health Agency in Aiken County at a total project cost of \$18,138.

Affecting Beaufort County

St. Joseph's/Candler Imaging Center – Bluffton

Purchase and installation of an Oasis XP 1.2T Open MRI System at a total project cost of \$1,950,114.22.

Affecting Dorchester County

Trident Medical Center, LLC d/b/a Summerville Medical Center

Consolidate Trident Medical Center's and Summerville Medical Center's obstetrics and neonatal services into one unit at the SMC campus and updated aesthetics and amenities at a total project cost of \$18,795,016.

Affecting Florence County

Georgetown Hospital Home Health, LLC d/b/a Amedisys Home Health Care

Establishment of a Home Health Agency in Florence County at a total project cost of \$18,138.

McLeod Regional Medical Center of the Pee Dee, Inc. d/b/a McLeod Physicians Associates II

Purchase of a fix MRI on the campus of McLeod Regional Medical Center of the Pee Dee, Inc. at a total project of \$2,001,276.

QHG of South Carolina, Inc. d/b/a Carolinas Hospital System

Renovation to an existing facility for a dedicated Electrophysiology (EP) lab and the purchase of associated equipment including an IGS 520 Imaging System at a total project cost of \$2,501,451.

Affecting Horry County**Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center**

Addition of a new twenty four (24) bed rehabilitation unit at a total project cost of \$11,624,295.

McLeod Loris Seacoast Hospital d/b/a McLeod Seacoast

Addition of a mobile PET/CT to McLeod Loris Seacoast Hospital at a total project cost of \$254,000.

Myrtle Beach Rehabilitation Hospital, LLC

Transfer of 31 inpatient rehabilitation beds from Tidelands Rehabilitation Hospital to Myrtle Beach Rehabilitation Hospital and the addition of 15 rehabilitation beds to create a 46-bed freestanding Comprehensive Medical Rehabilitation Hospital in Horry County at a total project cost of \$24,966,941.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**NOTICE OF GENERAL PUBLIC INTEREST**

DHEC-Bureau of Land and Waste Management, File #58415
Former Orkin Pest Control Facility Site

NOTICE OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Voluntary Cleanup Contract (VCC) with Orkin, LLC and VH Properties, LLC (Respondents). The VCC provides that the Respondents, with DHEC's oversight, will fund and perform future response actions at the Former Orkin Pest Control located in Charleston County, at 1591 Sam Rittenberg Boulevard, Charleston, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants (Site).

Future response actions addressed in the VCC include, but may not be limited to, the Respondents funding and performing a Remedial Investigation (RI) to determine the source, nature, and extent of the release or threat of release of hazardous substances, pollutants, or contaminants and, if necessary, conduct a Feasibility Study (FS) to evaluate alternatives to clean-up the Site. Further, the Respondents will reimburse the Department's future costs of overseeing the work performed by the Respondents and other Department costs of response pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (as amended). Notice of Contribution Protection and Comment Period will be provided to known potentially responsible parties via email or US mail. The VCC is available:

- (1) On-line at <http://www.scdhec.gov/Apps/Environment/PublicNotices> or
- (2) By contacting David Wilkie at 803-898-0882 or wilkietd@dhec.sc.gov.

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Any comments to the proposed VCC must be submitted in writing, postmarked no later than November 28, 2016, and addressed to: David Wilkie, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, the Responsible Party will receive a covenant not to sue for the work done in completing the response actions specifically covered in the Contract and completed in accordance with the approved work plans and reports. Upon execution of the VCC, the Responsible Party shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. 9613(f)(2) and 9613(f)(3)(B), and under S.C. Code Ann. Section 44-56-200, for the response actions specifically covered in the Contract including the approved work plans and reports. Contribution protection is contingent upon the Department's determination that the Responsible Party has successfully and completely complied with the VCC.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File #417413
Getinge/Castle/Maquet Site

NOTICE OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Voluntary Cleanup Contract (VCC) with Getinge USA, Inc. (Getinge). The VCC provides that Getinge, with DHEC's oversight, will fund and perform future response actions at the Getinge/Castle/Maquet facility located in Charleston County, at 7371-B Spartan Boulevard, North Charleston, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants from the facility property (Site).

Future response actions addressed in the VCC include, but may not be limited to, Getinge funding and performing a Long-Term Groundwater Monitoring Plan and, if necessary, conducting a Feasibility Study (FS) to evaluate cleanup alternatives. Further, Getinge will reimburse the Department's past response costs of \$3,670.27 and the Department's future costs of overseeing the work performed by Getinge and other Department costs of response pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (as amended). Notice of Contribution Protection and Comment Period will be provided to known potentially responsible parties via email or US mail. The VCC is available:

- (1) On-line at www.scdhec.gov/environment/lwm/publicnotice.htm; or
- (2) By contacting David Wilkie at 803-898-0882 or wilkietd@dhec.sc.gov.

Any comments to the proposed VCC must be submitted in writing, postmarked no later than November 28, 2016 and addressed to: David Wilkie, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, Getinge will receive a covenant not to sue for the work done in completing the response actions specifically covered in the Contract and completed in accordance with the approved work plans and reports. Upon execution of the VCC, Getinge shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. 9613(f)(2) and 9613(f)(3)(B), and under S.C. Code Ann. Section 44-56-200, for the response actions

specifically covered in the Contract including the approved work plans and reports. Contribution protection is contingent upon the Department's determination that Getinge has successfully and completely complied with the VCC.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File #400817
Milliken Kingstree Plant Site

NOTICE OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (the Department) intends to enter into a Voluntary Cleanup Contract (VCC) with the Milliken & Company (Milliken). The VCC provides that Milliken, with DHEC's oversight, will perform future response actions at the Milliken Kingstree Plant facility located in Williamsburg County at 119 Milliken Drive, Kingstree, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants (Site).

Future response actions addressed in the VCC include, but may not be limited to, Milliken conducting sampling and/or installing additional permanent groundwater monitoring wells, performing an assessment of groundwater contamination, and if deemed necessary by the Department, conducting a Feasibility Study (FS) to evaluate alternatives to clean-up the Site. Further, Milliken will reimburse the Department's past response costs of \$11,384.20 and its future costs of overseeing the work performed by Milliken and other Department costs of response pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. Section 44-56-200 (as amended). Notice of Contribution Protection and Comment Period will be provided to known potentially responsible parties via email or US mail. The VCC is available:

- (1) On-line at www.scdhec.gov/Apps/Environment/PublicNotices; or
- (2) By contacting Pat Vincent at 803-898-0840 or vincenpl@dhec.sc.gov.

Any comments to the proposed VCC must be submitted in writing, postmarked no later than November 28, 2016, and addressed to: Pat Vincent, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, Milliken will receive a covenant not to sue for the work done in completing the response actions specifically covered in the VCC and completed in accordance with the approved work plans and reports. Upon execution of the VCC, Milliken shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9613(f)(3)(B), and under S.C. Code Ann. Section 44-56-200, for the response actions specifically covered in the VCC including the approved work plans and reports. Contribution protection is contingent upon the Department's determination that Milliken has successfully and completely complied with the VCC.

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DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF PHARMACY

CHAPTER 99

Statutory Authority: 1976 Code Sections 40-1-70 and 40-43-60(D)(5)

Notice of Drafting:

The South Carolina Board of Pharmacy proposes to promulgate a regulation setting forth the minimum specifications and practice standards governing pharmacies and pharmacists engaged in sterile and nonsterile compounding. Interested persons may submit comments to Lee Ann Bundrick, Chief Drug Inspector and Administrator, South Carolina Board of Pharmacy, Post Office Box 11927, Columbia, SC 29211-11927.

Synopsis:

The Board of Pharmacy proposes to promulgate a regulation setting forth the minimum specifications and practice standards governing pharmacies and pharmacists engaged in sterile and nonsterile compounding.

Legislative review is required.

DEPARTMENT OF MENTAL HEALTH

CHAPTER 87

Statutory Authority: 1976 Code Sections 44-9-100, 44-11-70, 44-17-10, 44-23-10 and 56-21-70

Notice of Drafting:

The South Carolina Department of Mental Health proposes to amend and modify Regulations 87-1, Designated Examiners; 87-2, Parking Regulations; 87-3, Forms; and 87-4, Public Records. Interested persons may submit written comments to John Magill, State Director, South Carolina Department of Mental Health, P.O. Box 485, Columbia, South Carolina 29202-9888. To be considered, all comments must be received not later than 5:00 p.m. November 7, 2016, the close of the drafting comment period.

Synopsis:

The purposes of these proposed amendments are to revise and edit the regulatory language to conform to current statutory requirements and to delete obsolete provisions.

Legislative review of this amendment is required.

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-3-100, 50-9-650, 50-11-10, 50-11-65, 50-11-96, 50-11-105, 50-11-310, 50-11-315, 50-11-320, 50-11-350, 50-11-365, 50-11-390, 50-11-410, 50-11-430, 50-11-500, 50-11-520, 50-11-525, 50-11-530, 50-11-580, 50-11-854, 50-11-2200 and 50-11-2210

Notice of Drafting:

The Department of Natural Resources proposes to amend Regulations 123-40 "Wildlife Management Area Regulations," 123-51 "Turkey Hunting Rules and Seasons," and 123-52 "Either-sex Days and Antlerless Deer Limits for Private Lands in Game Zones 1-4." The subject of the proposed action is to amend the regulations to modify existing seasons and methods, to add new wildlife management areas to allow additional hunting

opportunity, to provide an exemption to the requirement to wear international orange to archery hunters, to amend the turkey bag limit on WMA lands in Game Zone 3 to conform to the statewide bag limit, and to provide for tagging requirements and amend daily and seasonal bag limits for antlerless deer in game zones 1-4 for standardization and to conform to state law. Any person interested may submit written comments to Emily Cope, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

These amended regulations will allow the expansion of existing seasons and methods within the current season framework to allow additional opportunity on existing and new Wildlife Management Areas. These regulations set seasons, bag limits and methods of hunting and taking of wildlife and other restrictions on Wildlife Management Areas and provide an exemption to the requirement for archery deer hunters to wear international orange clothing. Amendments are also made to tagging requirements and daily and seasonal bag limits for antlerless deer for standardization and to conform to state law.

Legislative review is required.

DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-11-2200

Notice of Drafting:

The Department of Natural Resources proposes to amend Regulations 123-209 "Term and Conditions for the Public's Use of State Lakes and Ponds Owned by the Department of Natural Resources" and 123-210 "Term and Conditions for the Public's Use of State Lakes and Ponds Owned or Leased by the Department of Natural Resources". The subject of the proposed action is to establish and revise under code section 50-11-2200 the terms and conditions for the public use of lakes owned or leased by the SC Department of Natural Resources that previously were established under repealed code section 50-13-2011. Any person interested may submit written comments to Emily Cope, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

These amended regulations will allow for the public use of lakes and ponds owned or leased by the Department and managed as a part of the State Lakes Program for public fishing. The regulations establish opening and closure times and dates, possession limits, size limits, methods for taking fish and other use allowances and restrictions for lake and ponds in the State Lakes Program.

Legislative review is required.

WORKERS' COMPENSATION COMMISSION
CHAPTER 67
Statutory Authority: 1976 Code Section 42-3-30

Notice of Drafting:

The South Carolina Workers' Compensation Commission proposes to amend regulations to Chapter 67 for clarification of certain regulations; to amend the subpoena process of a pro se litigant; to eliminate the use of the Form 18 to request an informal conference; to streamline the procedure for requesting a Hearing by abolishing

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the Form 15, Section III; to amend language to provide instructions for requesting copies of transcripts; to correct a typographical error; to adopt amendments recommended by Debit Card Advisory Committee; and to require parties to file a Form 70 at completion of mediation. Interested persons may submit written comments to Gary Cannon, Executive Director, South Carolina Workers' Compensation Commission, 1333 Main Street, Post Office Box 1715, Columbia, South Carolina 29202-1715. To be considered, all comments must be received no later than 5:00 p.m. November 7, 2016, the close of the drafting comment period.

Synopsis:

The Commission is making revisions to address, but not necessarily limited to, the following subjects:

Reg. 67-201: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that Article 2 of the Regulations applies to all levels of proceedings before the Commission.

Reg. 67-205: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-207: In order to streamline the procedure for requesting a Hearing, the Commission is abolishing the use of a superfluous form, the Form 15, Section III, and directing claimants requesting a Hearing on any issues involving the merits to use a Form 50 Employee Request for Hearing.

Reg. 67-211: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-213: Clarification that the effective date of service when service is made electronically is the date it is sent and received as indicated by the parties' electronic mail service provider.

Reg. 67-214: Amend the process of a pro se litigant obtaining a subpoena to compel discovery. The amendments will provide Commission supervision of the content of the subpoenas before they are signed by a representative of the Commission on the pro se party's behalf. This will ensure an unrepresented litigant's access to meaningful discovery is preserved and reduce the use of subpoenas for abusive practices.

Reg. 67-215: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that the Commission will not consider Motions addressing the merits, including Motions for Reconsideration of substantive issues, at any level of proceedings before the Commission.

Reg. 67-413: Eliminate the use of the Form 18 to request an informal conference by deleting subsection (A)(2) which currently reads "[file a Form 18 Status Report] to request an informal conference". Line 6 on the current Form 18 reading "Informal Conference is Requested: _Yes _No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as Second Report of Injury (SROI) through Electronic Document Interface (EDI).

Reg. 67-504: In order to streamline the procedure for requesting a Hearing, the Commission is abolishing the superfluous Form 15, Section III, and directing claimants requesting a Hearing under this section to use a Form 50 Employee Request for Hearing.

Reg. 67-611: The changes clarify a deadline for making amendments to a Pre-Hearing Brief. They are a result of the decision in *Fore v. Griffco of Wampee*, 409 S.C. 360, 762 S.E.2d 37 (S.C. App. 2014).

Reg. 67-613: The changes eliminate provisions of the regulation that are inconsistent with the Commission's current practice in which postponements are not passed on to the next jurisdictional Commissioner.

Reg. 67-615: Amending language to direct parties to contact the Court Reporter directly for a copy of a transcript, not the Commission. This change is needed to reflect the changes made to S.C. Code Ann. Section 42-3-60 and Section 42-3-170.

Reg. 67-712: In response to *Rhame v. Charleston Co. School Dist.*, the Commission needs to clarify that a party aggrieved by a final decision on the merits of the Commission must appeal in accordance with S.C. Code Ann. Section 42-17-60 instead of filing a Motion for Reconsideration.

Reg. 67-802: Amending the process for requesting an informal conference by clarifying that the employers' representative must file a letter requesting that an informal conference be held and file a current Form 18. Line 6 on the current Form 18 reading "Informal Conference is Requested: _Yes _No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as SROI through EDI.

Reg. 67-804: Amending the process for requesting an informal conference by clarifying that the employers' representative must file a letter requesting that an informal conference be held and file a current Form 18. Line 6 on the current Form 18 reading "Informal Conference is Requested: _Yes _No (check one)" will be eliminated from the Form 18. This is necessary to implement the use of the Form 18 as SROI through EDI.

Reg. 67-1515: Correction of a typographical error; removal of the word "the" from the clause ". . .the effective date of *the* such insurance program, . . ."

Reg. 67-1602: The Commission will consider adopting the amendments recommended by the Debit Card Advisory Committee.

Reg. 67-1802: The Commission will alter the listing of situations where mediation is mandatory to clarify that mandatory mediation is only triggered for claimants claiming permanent and total disability when the claimant has reached maximum medical improvement.

Reg. 67-1804: The change provides grammatical amendments and clarifies the timing in which a mediator must be selected.

Reg. 67-1809: The Commission will provide sanctions for the failure of the parties to file a Form 70 Report of Mediation in a timely manner by barring the processing of a Form 19 until the Form 70 has been received.

Legislative review of this amendment is required.

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Document No. 4673
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory authority: 1976 Code Section 47-4-30 and 47-17-130

27-1023. State Meat Inspection Regulation.

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21 USCA 661, Section 301) which established Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations “at least equal to” those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on December 2, 2016 at 9:00 a.m. If no request is received by December 1, 2016 the hearing will be canceled. Written comments may be directed to Dr. Suzanne Southworth, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than December 1, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Meat Inspection Regulation.

Purpose: To modernize, clarify and update the existing regulations which govern the inspection of meat products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Meat Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be “at least equal to” applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Section 47-4-30 and 47-17-130.

Plan for Implementation: The state meat inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

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

None.

DETERMINATION OF COSTS AND BENEFITS:

None.

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:

None.

Statement of Rationale:

None.

Text:

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

Document No. 4674

CLEMSON UNIVERSITY

STATE LIVESTOCK-POULTRY HEALTH COMMISSION

CHAPTER 27

Statutory Authority: 1976 Code Section 47-4-30, 47-19-30, and 47-19-170

27-1022. State Poultry Products Inspection Regulation.

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act (21 USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations "at least equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on December 2, 2016 at 9:00 a.m. If no request is received by December 1, 2016 the hearing will be canceled.

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Written comments may be directed to Dr. Suzanne Southworth, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than December 1, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Poultry Products Inspection Regulation.

Purpose: To modernize, clarify and update the existing regulations which govern the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Section 47-4-30, 47-19-30 and 47-19-170.

Plan for Implementation: The state poultry inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

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

None.

DETERMINATION OF COSTS AND BENEFITS:

None.

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:

None.

Statement of Rationale:

None.

Text:

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

Document No. 4707
DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Sections 37-17-10 et seq.,
Particularly Section 37-17-120

Preamble:

The department proposes to promulgate Regulation 28-90 to clarify registration requirements and processes regarding discount medical plan organizations.

Section 37-17-120 allows the Department to promulgate regulations necessary to effectuate the purposes of Title 37, Chapter 17.

The proposed regulations will require legislative review.

Notice of Drafting for the proposed regulations was published in the *State Register* on August 26, 2016. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

28-90 Add to clarify registration requirements and processes regarding discount medical plan organizations.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit comments to L. Becky Dover, Staff Attorney, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250-5757, by November 30, 2016. Should a public hearing be requested by at least twenty-five persons, the hearing will be held at the Department on December 13, 2016 at 2:00 p.m. in the Conference Room, 2221 Devine Street, Suite 200, Columbia, SC 29205.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Discount Medical Plan Certificate of Registration.

Purpose: The purpose of the regulation is to clarify registration requirements and processes regarding discount medical plan organizations.

Legal Authority: 1976 Code Sections 37-17-10 et seq., particularly Section 37-17-120.

Plan for Implementation: Administrative.

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

The regulation is needed to clarify registration requirements and processes regarding discount medical plans.

DETERMINATION OF COSTS AND BENEFITS:

Licensing fees assessed are at levels intended to offset the costs of administering the regulation.

UNCERTAINTIES OF ESTIMATES:

Current fees are based on agency experience in regulating the industry. Should the number of filings vary greatly, estimates could change. However, since costs to the State should be covered by the licensing fees set in S.C. Code Sections 37-17-10 et seq., impact should be minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

Section 37-17-120 specifically provides for the department to promulgate regulations necessary for the implementation of Chapter 17. It is necessary to promulgate a regulation to clarify licensing requirements.

Text:

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

Document No. 4708

DEPARTMENT OF CONSUMER AFFAIRS

CHAPTER 28

Statutory Authority: 1976 Code Sections 39-61-10 et seq.,
Particularly Section 39-61-160

28-80. Motor Club Certificate of Authority.

Preamble:

The department proposes to amend Regulation 28-80 to clarify registration requirements and processes regarding motor club services companies and representatives.

The proposed regulation will require legislative review.

Notice of Drafting for the proposed regulation was published in the *State Register* on August 26, 2016. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

- 28-80(B) Modified to provide that company applications must be made on a form prescribed by the Administrator
- 28-80(C) Modified to provide that representative appointments and terminations must be made on a form prescribed by the Administrator and deleted the reference to an identification card

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit comments to Kelly H. Rainsford, Deputy of Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250-5757, by November 30, 2016. Should a public hearing be requested, the hearing will be held at the department on December 13, 2016, at 2:00 p.m. in the Conference Room, 2221 Devine Street, Suite 200, Columbia, S.C. 29205.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Motor Club Certificate of Authority.

Purpose: The proposed regulation modifies the regulatory language to clarify registration requirements and processes regarding motor club services companies and representatives.

Legal Authority: 1976 Code Sections 39-61-10 et seq., particularly Section 39-61-160.

Plan for Implementation: Administrative.

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

Regulation 28-80 was last amended April 27, 1990. The proposed regulation is intended to clarify registration requirements and processes regarding motor club services companies and representatives.

DETERMINATION OF COSTS AND BENEFITS:

This regulation will not increase administrative costs.

UNCERTAINTIES OF ESTIMATES:

Current fees are based on agency experience in regulating the industry. Should the number of filings vary greatly, estimates could change. However, since costs to the State should be covered by the licensing fees set in S.C. Code Sections 39-61-10 et seq., impact should be minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The department is revising this regulation in order to clarify registration requirements and processes regarding motor club services companies and representatives.

Text:

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

Document No. 4709
DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Sections 37-16-10 et seq.,
Particularly Section 37-16-90

28-1100. Prepaid Legal Services Certificate of Registration.

Preamble:

The department proposes to amend Regulation 28-1100 to clarify registration requirements and processes regarding prepaid legal services companies and representatives.

The proposed regulation will require legislative review.

Notice of Drafting for the proposed regulation was published in the *State Register* on August 26, 2016. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

- 28-1100(A) Added definitions
- 28-1100(B) Modified to provide that company applications must be made on a form prescribed by the Administrator
- 28-1100(C) Modified to provide that representative appointments and terminations must be made on a form prescribed by the Administrator

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit comments to Kelly H. Rainsford, Deputy of Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250-5757, by November 30, 2016. Should a public hearing be requested, the hearing will be held at the department on December 13, 2016, at 2:00 p.m. in the Conference Room, 2221 Devine Street, Suite 200, Columbia, S.C. 29205.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Prepaid Legal Services Certificate of Registration.

Purpose: The proposed regulation modifies the regulatory language to clarify registration requirements and processes regarding prepaid legal services companies and representatives.

Legal Authority: 1976 Code Sections 37-16-10 et seq., particularly Section 37-16-90.

Plan for Implementation: Administrative.

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

Regulation 28-1100 first became effective on June 26, 2015. The proposed regulation is intended to clarify registration requirements and processes regarding prepaid legal services companies and representatives.

DETERMINATION OF COSTS AND BENEFITS:

This regulation will not increase administrative costs.

UNCERTAINTIES OF ESTIMATES:

Current fees are based on agency experience in regulating the industry. Should the number of filings vary greatly, estimates could change. However, since costs to the State should be covered by the licensing fees set in S.C. Code Sections 37-16-10 et seq., impact should be minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The department is revising this regulation in order to clarify registration requirements and processes regarding prepaid legal services companies and representatives.

Text:

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

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Document No. 4694
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-25-110, 59-26-10, and 20 U.S.C. 6301 et seq.

43-300. Accreditation Criteria.

Preamble:

State Board of Education (SBE) Regulation 43-300 governs districts' accreditation criteria. Either the SBE accredits the school district or the school district seeks accreditation from an accrediting entity approved by higher education.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on August 26, 2016.

Section-by-Section Discussion

The proposed amendments to Section II(B) will provide clarification of the accreditation options available under Option 2.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Darlene Prevatt, Team Leader, Office of Federal and State Accountability, Division of Federal, State, and Community Resources, 1429 Senate Street, Columbia, SC 29201 or by e-mail to DPrevatt@ed.sc.gov on or before 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Accreditation Criteria.

Purpose: Regulation 43-300 is being amended.

Legal Authority: 1976 Code Sections 59-5-60, 59-25-110, 59-26-10 and the No Child Left Behind Act of 2001, 20 U.S.C. Section 6301 et seq.

Plan for Implementation: The proposed amendment will be posted on the South Carolina Department of Education's (SCDE) website for review and comment. The amendment will take effect upon approval by the General Assembly and publication in the *State Register*.

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

The amendment will remove a layer of oversight not required when a school district chooses the alternative accreditation option.

DETERMINATION OF COSTS AND BENEFITS:

The SCDE staff will be able to redirect time and effort to assisting school districts in Option 1 accreditation.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation has no effect on the environment or public health.

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

This regulation will have no detrimental effect on the environment or public health if not implemented.

Statement of Rationale:

The amendment will remove a layer of oversight not required when a school district chooses the alternative accreditation option.

Text:

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

Document No. 4695

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-59-10 et seq., and Pub. L. No. 114-95

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

Preamble:

Regulation 43-205 defines the qualifications of administrative and professional personnel for the district and school level. The regulation also describes the duties, as well as the workloads of the personnel of the school level personnel.

The amendments will remove references to No Child Left Behind and “highly qualified.” Additional language will clarify terminology and provide legal citations to professional personnel for qualifications and duties.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on July 22, 2016.

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Section-by-Section Discussion

Entire Document	Cleanup has been done on this regulation to renumber sections and sub-sections; change the name of the “Office of Educator Certification” to the “Office of Educator Services”; change the terminology from “ an out-of-field” with “a certification”
Section I.	Add “(see Reg. 43-53)
Section II(A)(1)	Add “(see Reg. 43-53)
Section II(A)(3)	Delete the “No Child Left Behind” language and add “(see Reg. 43-53)
Section II(B)(1)(b)	Replace “one” with “kindergarten”
Section II(B)(2)(a)	Replace “one” with “kindergarten”
Section II(B)(2)(c)	Change “total” to “totals”
Section III(A)(1)(a)	Add “(see Reg. 43-53)
Section III(A)(3)	Delete the “No Child Left Behind” language and add “(see Reg. 43-53)
Section III(A)(5)	Add “If this person is to provide classroom instruction, he or she must be certified.”
Section III(B)(3)(b)	Change “total” to “totals”
Section IV(A)(1)(a)	Add “(see Reg. 43-53)
Section IV(A)(3)	Delete the “No Child Left Behind” language and add “(see Reg. 43-53)
Section IV(A)(5)	Add “If this person is to provide classroom instruction, he or she must be certified.”
Section IV(B)(3)(d)	Change “total” to “totals”

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education web site for review and comment. To review the regulation click on the attached link: <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>

Written comments should be submitted to Darlene Prevatt, Team Leader, Office of Federal and State Accountability, 1429 Senate Street, Room 501-A, Columbia, South Carolina 29201 or by e-mail to dprevatt@ed.sc.gov by 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the state and its political subdivisions in complying with the proposed revisions to Regulation 43-205.

Statement of Need and Reasonableness:

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

Purpose: The regulation clarifies the qualifications, duties, and workloads for administrative and professional personnel in public schools in the state.

Legal Authority: 1976 Code Sections 59-5-60; 59-50-10; and Pub. L. No. 114-95.

Plan for Implementation: The proposed amendments will be incorporated within Regulation 43-205 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented. School and district personnel will be informed of the new procedures through electronic correspondence.

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

As reflected in 1976 Code Sections 59-5-60; 59-50-10; and Pub. L. No. 114-95, each school district board of trustees must ensure personnel are properly hired. The amendments will remove references to No Child Left Behind and “highly qualified.” Additional language will clarify terminology and provide legal citations to professional personnel for qualifications and duties.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulations are not implemented.

Statement of Rationale:

State Board of Education Regulation 43-205 outlines districts’ administrative and professional personnel qualifications, duties and workloads. The amendments will remove references to No Child Left Behind and “highly qualified.” Additional language will clarify terminology and provide legal citations to professional personnel for qualifications and duties.

Text:

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

132 PROPOSED REGULATIONS

Document No. 4696

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Section 59-29-190

43-258.1. Advanced Placement.

Preamble:

State Board of Education Regulation 43-258.1 governs the requirements for advanced placement (AP) courses, students, and educators in South Carolina. Amendments to Regulation 43-258.1 will update the teacher special endorsement requirement to allow more flexibility.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on August 26, 2016.

Section-by-Section Discussion

Section IV.

Deletes old model of required training. Specifically deletes the wording “completed the appropriate AP three-graduate-hour training program or have successfully completed forty-five hours of training provided by College Board endorsed professional development opportunities verified by the appropriate college or university.”

Adds the revised training model options. Specifically adds the wording: “added the specialized AP course endorsement. The specialized AP course endorsement may be earned by: (1) successful completion of the three-semester hours graduate training program or other training program approved by the South Carolina Department of Education, or (2) successful completion of at least thirty hours of training by a College Board endorsed provider, or (3) documentation of a Ph.D. or other terminal degree in the course subject area.” This increases flexibility and the number of options for teachers to obtain the specialized AP course endorsement as requested by districts.

Deletes “Exception 1:” This now becomes a separate statement.

Deletes “Exception 2: Teachers who hold a Ph.D. in their subject area may have the training waived.” This is reworded in the language to add the specialized endorsement above, rather than an exception to the required trainings. It also allows other terminal degree options.

Adds “College Board trainings” This increases flexibility to include online trainings and other approved teacher training models.

Adds “approved”

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Rick Blanchard, Education Associate for Gifted and Talented, Advanced Placement, and International Baccalaureate Programs, South Carolina Department of Education, Division of College and Career Readiness, Office of Standards and Learning, 1429 Senate Street, Room 602, Columbia, SC 29201 or by e-mail to rblanchard@ed.sc.gov on or before 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-258.1. Advanced Placement.

Purpose: Regulation 43-258.1 is being amended to add updated training models for teachers.

Legal Authority: 1976 Code Sections: 59-29-190.

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

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

The amendments to the regulation are needed to provide more options for teachers to add the specialized AP course endorsements; to allow flexibility in the delivery methods of these trainings; and to offer consistency with neighboring states and most states in the country. The amendments allow more flexibility for school districts to meet the requirements.

DETERMINATION OF COSTS AND BENEFITS:

None.

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:

None.

Statement of Rationale:

The amendments to this regulation will provide clear definitions of allowable training options for teachers to add the specialized AP course endorsements, thus providing school districts more flexibility to in providing training for teachers.

Text:

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

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Document No. 4697
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, 59-53-1810, and 20 U.S.C. 2301 et seq.

43-236. Career or Technology Centers/Comprehensive High Schools.

Preamble:

Regulation 43-236 governs school districts' offerings in high schools and/or career or technology centers. The regulation stipulates that at least two career clusters will be offered at each high school, Career or Technology Centers/Comprehensive High Schools. The regulation further states that four units are needed to complete a career major.

The proposed amendment from four units to three units in an approved sequence of Career and Technical Education (CATE) coursework is being made in an effort to provide students more flexibility in personalizing their program of study. The amendment will create more opportunities for extended learning opportunities such as Internships and Apprenticeships to better prepare for an industry recognized credential. Furthermore, this amendment from four to a minimum of three units will align South Carolina with the rest of the states in terms of completing a Career and Technical Program of Study.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on June 24, 2016.

Section-by-Section Discussion

The amendment will adjust the number of units to complete a career major from four units to a minimum of three units to provide students with greater flexibility in scheduling and align the South Carolina Department of Education's requirements with other states' requirements.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amended regulation will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Ronald Roveri, Director, Office of Career and Technology Education, 1429 Senate Street, Room 912-A, Columbia, South Carolina 29201 or by e-mail to rroveri@ed.sc.gov on or before 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 43-236.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Career or Technology Centers/Comprehensive High Schools.

Purpose: Regulation 43-236 governs school districts' offerings in high schools and/or career or technology centers. The regulation stipulates that at least two career clusters will be offered at each high school, Career or Technology Centers/Comprehensive High Schools. The regulation further states that four units are needed to complete a career major.

The amendment will address CATE completer requirements.

Legal Authority: 1976 Code Sections 59-5-60, 59-5-65, 59-53-1810, and 20 U.S.C. 2301, *et seq.*

Plan for Implementation: The proposed amendments will be incorporated within 43-236 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented. School and district personnel will be informed of the new procedures through electronic correspondence.

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

As reflected in 1976 Code Sections 59-5-60, 59-5-65, 59-53-1810, and 20 U.S.C. 2301, *et seq.*, the State Board of Education shall adopt policies, rules, and regulations not inconsistent with the laws of the State for its own government and for the government of free public schools. The purpose of the proposed change is to ensure compliance of the regulation by reducing the number of CATE courses for completer status from four to a minimum of three units.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulations are not implemented.

Statement of Rationale:

Regulation 43-236 governs school districts' offerings in high schools and/or career or technology centers. The regulation stipulates that at least two career clusters will be offered at each high school, Career or Technology Centers/Comprehensive High Schools. The regulation further states that four units are needed to complete a career major.

The amendment will address the number of CATE courses required to be a completer of a CATE program from four units to a minimum of three units.

Text:

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

136 PROPOSED REGULATIONS

Document No. 4698

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 and 59-25-110

43-51. Certification Requirements.

Preamble:

State Board of Education Regulation 43-51 governs the requirements for granting educator certification. Amendments to Regulation 43-51 will clarify that both content and pedagogy examinations must be presented for certification; clarify the experience requirement necessary for an out-of-state educator to qualify for a professional, as opposed to an initial, teaching certificate; include provisions for issuing certificates for qualifying participants in all currently approved alternative certification pathways; and modify language within the regulation. Current language is specific to a particular educator preparation accrediting body (the National Council for Accreditation of Teacher Education (NCATE)) and offices within the South Carolina Department of Education (SCDE). The purpose of this amendment is to remove specific organizational names as these names often change. The new educator preparation accrediting body is the Council for the Accreditation of Educator Preparation (CAEP); however, a new accrediting body may be formed in the future. This change would eliminate the need for a regulation change any time an accrediting body or SCDE office changes.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on July 22, 2016.

Section-by-Section Discussion

Section I(A)	Delete name of previous accreditation body Replace specific name of previous accreditation organization with language referring to an organization in general terms
Section I(A)(2)	Delete name of previous accreditation body Replace specific name of previous accreditation organization with language referring to an organization in general terms
Section I(B)	Replace teacher area examination with teaching content area examination Add the requirement for successful score on the pedagogy examination which became effective July 1, 2006 Delete language referring to the July 1, 2006, effective date
Section II(B)	Replace Office of Teacher Certification with general term Replace the word "State" with "South Carolina" to provide consistency throughout the regulation
Section III(A)	Insert language clarifying that an out-of-state educator who presents less than twenty-seven months of successful teaching experience in the last seven years will be issued an initial teaching certificate and that the educator must present a successful score on the pedagogy examination in order to advance to a professional certificate
Section IV	Amend section title to include applicants to all alternative route programs
Section IV(A)	Change current text to item A
Section IV(B)	Insert new section for Teach for America applicants
Section IV(C)	Insert new section for American Board for the Certification of Teacher Excellence applicants
Section VI(A)	Insert references to content area examinations and pedagogy examination Delete language referring to the July 1, 2006, effective date requiring a successful score on pedagogy examination in order to be certified

- Section VI(B) Replace Office of Teacher Certification with general term
Replace the word “State” with “South Carolina” to provide consistency throughout the regulation
- Section VII Replace Office of Teacher Certification with general term
- Section VII(d) Add Teach for America certification
- Section VII(e) Add American Board for the Certification of Teacher Excellence certification

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education Web site for review and comment. To review the regulation, click on the attached link: <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Mary Hipp, Director, Office of Educator Services, Division of Federal, State, and Community Resources, 8301 Parklane Road, Columbia, SC 29223 or by e-mail to mhipp@ed.sc.gov on or before 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Certification Requirements.

Purpose: R.43-51, Certification Requirements, is being amended.

Legal Authority: 1976 Code Sections 59-5-60 and 59-25-110.

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

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

None.

DETERMINATION OF COSTS AND BENEFITS:

None.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

Amendments to Regulation 43-51 will clarify that both content and pedagogy examinations must be presented for certification; clarify the experience requirement necessary for an out-of-state educator to qualify for a professional, as opposed to an initial, teaching certificate; include provisions for issuing certificates for qualifying participants in all currently approved alternative certification pathways; and modify language within the regulation.

Text:

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

Document No. 4699

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1), 59-25-110, 59-26-10 et seq., and

Pub. L. No. 114-95

43-53. Credential Classification.

Preamble:

State Board of Education Regulation 43-53 governs the requirements for teacher credential classifications. Amendments to Regulation 43-53 will clarify conditions in which an educator may request extensions of an initial teaching certificate; delete temporary, transitional, and graded certificate types that are no longer issued; delete the special subject certificate which is no longer issued; and modify language within the regulation to reflect requirements of the Every Student Succeeds Act (ESSA). Current language is specific to a particular educator preparation accrediting body (the National Council for Accreditation of Teacher Education (NCATE)). The purpose of this amendment is to remove specific organizational names as these names often change. The new educator preparation accrediting body is the Council for the Accreditation of Educator Preparation (CAEP); however, a new accrediting body may be formed in the future. This change would eliminate the need for a regulation change any time an accrediting body changes.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on July 22, 2016.

Section-by-Section Discussion

Section I(A) Add induction contracts as an option since teachers may now have up to three induction contracts per the ADEPT statute
 Correct language since initial certificates can be extended but not renewed as can a professional certificate
 Add extension provision for teachers with initial certificates who are employed in public school settings in positions that do not require certification or fall under the ADEPT system for credential advancement

- Section I(A)(1) Delete name of previous accreditation organization and add language referring to an accrediting body in general terms
- Section I(A)(2) Insert references to content area examinations and pedagogy examination
Delete language referring to the July 1, 2006 effective date requiring a successful score on pedagogy examination in order to be certified
- Section I(C)(1) Change current text to section (C)1 and inserts specific reference to the Program for Alternative Certification of Teachers (PACE)
- Section I(C)(2) Create section (C)2 for Teach for America certification
- Section I(C)(3) Create section (C)3for American Board for Certification of Teacher Excellence
- Section I(G) Delete text related to temporary certificates which are no longer issued
Replace “Out-of-Field Permit” with “Certification Permit”
- Section III(A) Replace Office of Teacher Certification with general term
- Section III(A)(2) Insert a missing word
- Section III(B)(1) Replace Office of Teacher Certification with general term

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Mary Hipp; Director; Office of Educator Services; Division of Federal, State, and Community Resources; 8301 Parklane Road; Columbia, SC 29223 or by e-mail to mhipp@ed.sc.gov on or before 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Credential Classification.

Purpose: Regulation 43-53, Credential Classification, is being amended.

Legal Authority: Statutory Authority: 1976 Code Sections 59-5-60(1), 59-25-110, 59-26-10, et seq., and Pub. L. No. 114-95

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

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

None.

DETERMINATION OF COSTS AND BENEFITS:

None.

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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:

None.

Statement of Rationale:

Amendments to Regulation 43-53 will clarify conditions in which an educator may request extensions of an initial teaching certificate; delete temporary, transitional, and graded certificate types that are no longer issued; delete the special subject certificate which is no longer issued; modify language within the regulation to reflect requirements of the Every Student Succeeds Act (ESSA); and modify language within the regulation referring to specific accreditation organizations or offices within the South Carolina Department of Education.

Text:

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

Document No. 4700
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-18-110, 59-18-310(B), 59-29-10 et seq., 59-33-30, 59-53-1810, 20 U.S.C. 1232(g), and Pub. L. No. 114-95

43-234. Defined Program, Grades 9–12 and Graduation Requirements.

Preamble:

Regulation 43-234 establishes that each school board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students. The regulation also stipulates that each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices. The regulation also defines the graduation requirements for the state.

The amendment will address Career and Technology Education (CATE) completer requirements, language referencing CATE, and language referencing the Every Student Succeeds Act (ESSA). Language referencing the No Child Left Behind Act (NCLB) will be removed. The amendment will also address any new statutes regarding high school students. The language addressing Emergency Closings will be amended to address the new state statute.

Notice of Drafting for the proposed *amended* regulation was published in the *State Register* on June 24, 2016 and July 22, 2016.

Section-by-Section Discussion

Entire Document	Thompson/West Publishing has requested that the use of “R” and “R.” before a regulation number be replaced in the text of all regulations to “Reg.” or “Regulation” to allow them to link to other regulations that appear in the text of this regulation
Section (I)(B)	Deleted R 43-262.4, End-of-Course Tests and added Reg. 43-262, Assessment Program because the regulations were merged.
Section (II)(D)	Deleted R 43-262.4, End-of-Course Tests and added Reg. 43-262, Assessment Program because the regulations were merged.
Section (V)(B)(3)	Deleted “four” and added “three” CATE completers requirements
Section (V)(B)(8)	Added CPR instruction
Section (VII)(B)	Deleted “four” and added “three” CATE completers requirements
Section VIII	Deleted emergency closing section and replaced with language from new law on emergency closings

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amended regulation will be posted on the State Board of Education web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Interested persons may submit their comments in writing to Darlene Prevatt, Team Leader, Office of Federal and State Accountability, 1429 Senate Street, Room 501-A, Columbia, South Carolina 29201 or by e-mail to dprevatt@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions to Regulation 43-234.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Defined Program, Grades 9–12 and Graduation Requirements.

Purpose: Regulation 43-234 establishes that each school board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students. The regulation also stipulates that each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices. The regulation also defines the graduation requirements for the state.

The amendment will address CATE completer requirements, language referencing CATE, and language referencing theESSA. Language referencing the NCLB will be removed. The amendment will also address any new statutes regarding high school students. The language addressing Emergency Closings will be amended to address the new state statute.

Legal Authority: Statutory Authority: 1976 Code Sections 59-5-60, 59-18-110, 59-18-310(B), 59-29-10 et seq., 59-33-30, 59-53-1810, 20 U.S.C. 1232(g), and Pub. L. No. 114-95.

142 PROPOSED REGULATIONS

Plan for Implementation: The proposed amendments will be incorporated within 43-234 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented. School and district personnel will be informed of the new procedures through electronic correspondence.

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

As reflected in 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2013), 59-18-310(B) (to be codified at Supp. 2014), 59-29-10 et seq. (2004 and Supp. 2013), 59-33-30 (2004), 59-53-1810 (Supp. 2013), 20 U.S.C. 1232(g), and Pub. L. No. 114-95, the State Board of Education shall adopt policies, rules, and regulations not inconsistent with the laws of the State for its own government and for the government of free public schools. The purpose of the proposed change is to ensure compliance of the regulation by reducing the number of CATE completers from four to three and replacing the NCLB with ESSA. Other amendments will also address any new statutes regarding high school students and the language addressing Emergency Closings will be amended to address the new state statute.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulations are not implemented.

Statement of Rationale:

Regulation 43-234 establishes that each school board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students. The regulation also stipulates that each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices. The regulation also defines the graduation requirements for South Carolina.

The amendment will address CATE completer requirements, language referencing CATE, and language referencing the ESSA. Language referencing the NCLB will be removed. The amendment will also address any new statutes regarding high school students. The language addressing Emergency Closings will be amended to address the new state statute.

Text:

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

Document No. 4701
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1), 59-25-110, 59-26-10 et seq., and
20 U.S.C. 6301 et seq.

43-62. Requirements for Additional Areas of Certification.

Preamble:

State Board of Education Regulation 43-62 governs the requirements for additional areas of certification for educators in South Carolina. Amendments to Regulation 43-62 will change the title of the regulation from Requirements for Additional Areas of Certification to Areas of Certification and will give the State Board of Education in consultation with the South Carolina Department of Education authority to create, amend, or delete areas of initial certification, add-on certification, specialized endorsements, and specialized alternative certification.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on July 22, 2016.

Section-by-Section Discussion

Title	Replace current title with Areas of Certification
Section I	Delete current section now addressed in State Board of Education Guidelines Add State Board of Education approval process for initial areas of certification and certification grade spans
Section II	Delete information now addressed in State Board of Education guidelines Add State Board of Education approval process for adding areas of certification
Section III	Delete current section now addressed in State Board of Education guidelines Add State Board of Education approval process for specialized endorsement areas
Section IV	Delete current section now addressed in State Board of Education guidelines Add State Board of Education approval process for specialized alternative certification areas
Section V	Delete current section now addressed in State Board of Education guidelines
Section VI	Delete current section now addressed in State Board of Education guidelines

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 13, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education web site for review and comment. To review the regulation, click on the attached link: <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Mary Hipp, Director, Office of Educator Services, Division of Federal, State, and Community Resources, 8301 Parklane Road, Columbia, SC 29223 or by e-mail to mhipp@ed.sc.gov on or before 5:00 p.m. on November 28, 2016.

144 PROPOSED REGULATIONS

Preliminary Fiscal Impact Statement:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Requirements for Additional Areas of Certification.

Purpose: Regulation 43-62, Requirements for Additional Areas of Certification, is being amended.

Legal Authority: 1976 Code Sections 59-5-60(1), 59-25-110, 59-26-10 et seq., and 20 U.S.C. 6301 et seq.

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

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

SECTION 59-25-110 authorizes the State Board of Education, by rules and regulations, to formulate and administer a system for the examination and certification of teachers. Amendments to this regulation will establish a clear approval process for the creation, revision, and deletion of initial areas of certification, add-on areas of certification, specialized endorsements, and specialized alternative certifications. Currently, there is not an established approval process for initial areas of certification. These changes allow the State Board of Education to continue to provide appropriately qualified educators for South Carolina public schools and to address needed changes in educator training and certification more readily.

DETERMINATION OF COSTS AND BENEFITS:

None.

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:

None.

Statement of Rationale:

The amendments to this regulation will allow the State Board of Education to continue to provide appropriately qualified educators for South Carolina public schools and to address needed changes in educator training and certification more readily.

Text:

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

Document No. 4691

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE
CHAPTER 47**

Statutory Authority: 1976 Code Sections 41-29-110 and 41-35-720

47-51. Appeals to Appeal Tribunal.

Preamble:

The South Carolina Department of Employment and Workforce proposes to amend Regulation 47-51 in order to clarify the procedure for employers and claimants in presenting unemployment insurance (UI) cases before the Department. The Notice of Drafting regarding this regulation was published in the *State Register* on August 26, 2016.

Section-by-Section Discussion:

47-51. This section will clarify the procedure for employers and claimants in presenting unemployment insurance (UI) cases before the Department.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to Mark Hendrick, Director of Governmental Affairs, South Carolina Department of Employment and Workforce, P.O. Box 995, Columbia, South Carolina 29202 or by emailing RegulationComments@dew.sc.gov. To be considered, comments must be received no later than November 28, 2016 at 5:00 p.m.

A public hearing is scheduled for November 29, 2016, at 3:00 p.m., at the Administrative Law Court in the Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, South Carolina.

To review the regulation, visit the Department's website at: <http://dew.sc.gov/tools-resources/reports>.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 47-51. Appeals to Appeal Tribunal.

Purpose: The purpose of amending Regulation 47-51 is to clarify the procedure for employers and claimants in presenting UI cases before the Department.

Legal Authority: South Carolina Code Annotated Section 41-29-110 and Section 41-35-720.

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

146 PROPOSED REGULATIONS

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

The current regulation refers to the South Carolina Administrative Procedures Act (APA), which is not required under S.C. Code Ann. §41-35-720 (Supp. 2015). Section 41-35-720 states that “rules of procedure are not required to conform to common law or statutory rules of evidence and other technical rules of procedure.” Reference to the APA in the current regulation creates confusion and inconsistency as to what evidence is acceptable at unemployment insurance benefits hearings.

The Department proposes to amend the regulation to conform with the intent of the statute.

Additionally, the Department proposes to insert language regarding hearsay evidence to provide guidance for employers and claimants.

DETERMINATION OF COSTS AND BENEFITS:

There will be no change in costs to the Department. The amendments contained in this proposed regulation seek to clarify what types of competent evidence can be accepted in a UI hearing.

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 regulation will have no detrimental effect on the environment of public health if the regulation is not implemented.

Statement of Rationale:

The purpose of amending Regulation 47-51 is to clarify the procedure for employers and claimants in presenting their cases. S.C. Code Ann. §41-35-720 states the Department must promulgate regulations establishing the rules of procedure for hearings and appeals before the Department, and specifically provides that the “rules of procedure are not required to conform to common law or statutory rules of evidence and other technical rules of procedure.”

Currently, the language states, “[a]ll Appeal Tribunal hearings shall be de novo in nature and conducted informally in conformity with the [APA] and in such manner as to ascertain the substantial rights of the parties.” This language creates confusion because (1) the APA does not expressly allow for an informal process; and (2) the regulation does not conform with Section 41-35-720.

Regulation 47-51 also contains references to mailings that are no longer applicable under the operations of the Department and current statute.

Text:

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

Document No. 4692

DEPARTMENT OF EMPLOYMENT AND WORKFORCE
CHAPTER 47

Statutory Authority: 1976 Code Sections 4-29-110 and 41-35-720

47-52. Appeals to the Appellate Panel.

Preamble:

The South Carolina Department of Employment and Workforce proposes to amend Regulation 47-52 to identify a procedure within the Appellate Panel in the event a quorum is present but a majority decision is not reached and to clarify what information is included in a decision. The Notice of Drafting regarding this regulation was published in the *State Register* on August 26, 2016.

Section-by-Section Discussion:

47-52. This section will identify the procedure within the Appellate Panel in the event a quorum is present but a majority decision is not reached and to include language describing what is included in an Appellate Panel decision.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to Mark Hendrick, Director of Governmental Affairs, South Carolina Department of Employment and Workforce, P.O. Box 995, Columbia, South Carolina 29202 or by emailing RegulationComments@dew.sc.gov. To be considered, comments must be received no later than November 28, 2016 at 5:00 p.m.

A public hearing is scheduled for November 29, 2016, at 2:00 p.m., at the Administrative Law Court in the Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, South Carolina.

To review the regulation, visit the Department's website at: <http://dew.sc.gov/tools-resources/reports>.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 47-52. Appeals to the Appellate Panel.

Purpose: The purpose of amending Regulation 47-52 is to identify the procedure within the Appellate Panel in the event a quorum is present but a majority decision is not reached and to include language describing what is included in an Appellate Panel decision.

Legal Authority: South Carolina Code Annotated Section 41-29-110 and Section 41-35-720.

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

148 PROPOSED REGULATIONS

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

The current Regulation 47-52 does not identify what occurs in the event a quorum is present but a majority decision is not reached.

The proposed Regulation 47-52 identifies what occurs in the event a quorum is present but a majority decision is not reached and what is included in an Appellate Panel decision.

Additional amendments to Regulation 47-52 are to make language consistent with current South Carolina law.

DETERMINATION OF COSTS AND BENEFITS:

There is no additional cost to the Department or to the State based on this regulation. The benefit of this proposed amendment is to clarify what occurs when a quorum is present but a majority decision is not reached and what is included in an Appellate Panel decision.

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 regulation will have no detrimental effect on the environment of public health if the regulation is not implemented.

Statement of Rationale:

S.C. Code Ann. §41-35-720 states the Department must promulgate regulations establishing the rules of procedure for proceedings, hearings, and appeals to the appellate panel and the appeal tribunals. The amendment to Regulation 47-52 identifies the rule of procedure in the event a quorum is present but a majority decision is not reached in an appeal to the Appellate Panel.

Text:

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

Document No. 4693
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
CHAPTER 47
Statutory Authority: 1976 Code Section 4-29-110

47-104. Work Search.

Preamble:

The South Carolina Department of Employment and Workforce proposes to add Regulation 47-104 to require claimants to make two work searches per week through the South Carolina Works Online System (SCWOS). The Notice of Drafting regarding this regulation was published in the *State Register* on August 26, 2016.

Section-by-Section Discussion:

47-104. Added to require claimants to make two work searches per week through the South Carolina Works Online System (SCWOS).

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to Mark Hendrick, Director of Governmental Affairs, South Carolina Department of Employment and Workforce, P.O. Box 995, Columbia, South Carolina 29202 or by emailing RegulationComments@dew.sc.gov. To be considered, comments must be received no later than November 28, 2016 at 5:00 p.m.

A public hearing is scheduled for November 29, 2016, at 10:00 a.m., at the Administrative Law Court in the Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, South Carolina.

To review the regulation, visit the Department's website at: <http://dew.sc.gov/tools-resources/reports>.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 47-104. Work Search.

Purpose: The purpose of adding Regulation 47-104 is to require claimants to make two work searches per week through SCWOS, which the Department can electronically verify. Utilizing SCWOS to electronically verify a claimant's work search is an efficient and objective method of verifying eligibility and will prevent improper payments of benefits and ensure claimants are exposed to more job opportunities by learning to conduct an online job search.

Legal Authority: South Carolina Code Annotated Section 41-29-110.

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

150 PROPOSED REGULATIONS

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

Benefits are intended only for those claimants unemployed through no fault of their own and meet eligibility requirements. Claimants are eligible if they are able and available for work and are actively seeking work during each week they file a claim for benefits. The purpose of this regulation is to require work searches through SCWOS, which can be objectively verified by the Department. The regulation will assist the Department in preventing payments to claimants who fail to show they have made two active searches for work during a week they have filed a claim for benefits.

DETERMINATION OF COSTS AND BENEFITS:

There will be no change in costs to the Department. The benefit of this proposed regulation is preventing improper payments to claimants who are not eligible for benefits because they have not actively sought work during the week they have filed a claim for benefits.

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 regulation will have no detrimental effect on the environment of public health if the regulation is not implemented.

Statement of Rationale:

The purpose of drafting Regulation 47-104 is to provide an efficient and objective method for verifying claimants have actively searched for work during each week they have filed for benefits, which will prevent improper payments to claimants who have failed to search for work.

Text:

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

Document No. 4689
STATE BOARD OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE DIVISION
CHAPTER 15
Statutory Authority: 34-41-10 et seq.,
particularly Section 34-41-130

Preamble:

The South Carolina State Board of Financial Institutions - Consumer Finance Division seeks to add regulation 15-65 to clarify items concerning the licensure process.

1998 Act 433, Section 2 has licensing requirements that need to be clarified.

Section 34-41-130 allows the South Carolina State Board of Financial Institutions to promulgate regulations necessary carry out the purposes of this chapter, to provide for the protection of the public, and to assist licensees in interpreting and complying with this chapter.

The proposed regulation will require legislative review.

Notice of Drafting for the proposed regulation was published in the *State Register* on September 23, 2016. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

15-65(A). This section defines terms not previously defined in the Act.

15-65(B). This section clarifies timeframes regarding the expiration and renewal of Licenses and Branch Location Certificates.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the South Carolina State Board of Financial Institutions, 1205 Pendleton Street, Suite 300, Columbia, SC 29201 on December 7, 2016 at 1:00 p.m. Written comments may be directed to Ronald R. Bodvake, Commissioner, South Carolina State Board of Financial Institutions – Consumer Finance Division, 1205 Pendleton Street, Suite 306, Columbia, SC 29201 no later than 5:00 p.m., November 30, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be cancelled.

Preliminary Fiscal Impact Statement:

The Consumer Finance Division estimates that the additional costs incurred by the State in complying with the proposed regulation will be approximately \$0.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Check Cashing Services.

Purpose: In its present form, the Act requires certain actions without giving specific procedures or guidance as to how those actions should be completed. The proposed Regulation 15-65 would clarify the process by which the Consumer Finance Division requires certain actions to be completed.

Legal Authority: 34-41-10 et seq., particularly Section 34-41-130.

152 PROPOSED REGULATIONS

Plan for Implementation: The added regulation will take effect upon approval by the General Assembly and upon publication in the State Register. The Consumer Finance Division will notify licensees of the added regulation and post the added regulation on the agency's website.

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

The proposed regulation is necessary in order to ensure compliance with state statutes concerning check cashing services in South Carolina.

DETERMINATION OF COSTS AND BENEFITS:

Licensing fees assessed are at levels intended to offset any costs of administering the regulation.

UNCERTAINTIES OF ESTIMATES:

Estimates are based on current market conditions. However, since any costs should be covered by the licensing fees set in S.C. Code Section 34-41-10 et seq., there should be no financial impact to the State or its political subdivisions.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment or public health of this State.

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

There will be no detrimental effects on the environment or public health if the regulation is not implemented in this State.

Statement of Rationale:

1998 Act 433, section 2, specifically provides for the South Carolina State Board of Financial Institutions to promulgate regulations necessary to effectuate the purposes of the Act. Regulation 15-65 is being added to clarify licensing requirements imposed by the Act.

Text:

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

Document No. 4690
STATE BOARD OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE DIVISION
CHAPTER 15
Statutory Authority: 1976 Code Section 37-22-110 et seq.,
particularly Section 37-22-260

15-64. Mortgage Lending.

Preamble:

The South Carolina State Board of Financial Institutions - Consumer Finance Division seeks to amend regulation 15-64 in order to comply with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) and to bring sections of the South Carolina Mortgage Lending Act into conformity with changes in the Nationwide Mortgage Licensing System & Registry. Further, state-specific items in the South Carolina Mortgage Lending Act will be clarified, modified or deleted to meet the statutory requirements of both the S.A.F.E. Act and CFPB rules.

The South Carolina Mortgage Lending Act has reporting requirements that need to be changed as a result of changes in the federal laws or contractual arrangements.

Section 37-22-260 allows the designee of the South Carolina State Board of Financial Institutions to promulgate regulations necessary to effectuate the purposes of this Chapter.

The proposed regulation will require legislative review.

Notice of Drafting for the proposed regulation was published in the *State Register* on September 23, 2016. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

15-64(D). This section amends the requirements of the South Carolina Mortgage Lending Act regarding methods used by licensees to file the Mortgage Log and Annual Reports.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the South Carolina State Board of Financial Institutions, 1205 Pendleton Street, Suite 300, Columbia, SC 29201 on December 7, 2016 at 1:00 p.m. Written comments may be directed to Ronald R. Bodvake, Commissioner, South Carolina State Board of Financial Institutions – Consumer Finance Division, 1205 Pendleton Street, Suite 306, Columbia, SC 29201 no later than 5:00 p.m., November 30, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be cancelled.

Preliminary Fiscal Impact Statement:

The Consumer Finance Division estimates that the additional costs incurred by the State in complying with the proposed regulation will be approximately \$0.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Mortgage Lending.

154 PROPOSED REGULATIONS

Purpose: In its present form, the South Carolina Mortgage Lending Act requires certain actions without giving specific procedures or guidance as to how those actions should be completed. Additionally, the Act allows for or requires certain activities that may be completed in a much more efficient and effective manner utilizing the Nationwide Mortgage Licensing System and Registry (NMLS&R) as authorized by the Act. The proposed amendments to Regulation 15-64 would clarify the process by which the Consumer Finance Division requires certain actions to be completed.

Legal Authority: 1976 Code Section 37-22-110 et seq., particularly Section 37-22-260.

Plan for Implementation: The added regulation will take effect upon approval by the General Assembly and upon publication in the State Register. The Consumer Finance Division will notify licensees of the added regulation and post the added regulation on the agency's web site.

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

The proposed regulation is necessary in order to ensure compliance with state and federal statutes concerning mortgage lending in South Carolina.

DETERMINATION OF COSTS AND BENEFITS:

Licensing fees assessed are at levels intended to offset any costs of administering the regulation.

UNCERTAINTIES OF ESTIMATES:

Estimates are based on current market conditions. However, since any costs should be covered by the licensing fees set in S.C. Code Section 37-22-110 et seq., there should be no financial impact to the State or its political subdivisions.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment or public health of this State.

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

There will be no detrimental effects on the environment or public health if the regulation is not implemented in this State.

Statement of Rationale:

The South Carolina Mortgage lending Act (Act) specifically provides for the designee of the South Carolina State Board of Financial Institutions to promulgate regulations necessary to effectuate the purposes of the Act. Regulation 15-64 is being amended to clarify mortgage licensing requirements imposed by the Act and to ensure conformity between the Act and federal law.

Text:

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

Document No. 4703

OFFICE OF THE GOVERNOR

CHAPTER 58

Statutory Authority: 1976 Code Sections 25-1-420 et seq.

58-101. State Emergency Management Standards.

Preamble:

The Office of the Governor proposes amending R.58-101, State Emergency Management Standards. The proposed amendments will update the language of the regulation to include the role of the Adjutant General in emergency management as well as more precisely define the chain of command, coordination, direction, and control during an emergency. These revisions will help delineate the roles and responsibilities in emergency management at the state level.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Section-by-Section Discussion of Proposed Amendments

Section (A)(3) will include the Governor's Command Section (Policy Group/Executive Group) in the chain of communication and coordination.

Section (D)(2) will outline the roles and responsibilities of the Adjutant General in emergency management.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to Danielle Maynard, Legal Counsel, South Carolina Emergency Management Division, 2779 Fish Hatchery Road, West Columbia, South Carolina 29172, or via email at dmaynard@emd.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on November 27, 2016.

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be held at 10:00 a.m. on Tuesday, December 6, 2016, at the offices of the South Carolina Administrative Law Court, Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, South Carolina. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely or properly received, the hearing will be cancelled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Emergency Management Standards.

Purpose: The proposed amendments to R.58-101 will support the goal of updating the current regulation to include all of the individuals and groups who are primarily responsible for emergency management. Furthermore, the proposed amendments will clarify the chain of command and communication during an emergency.

Legal Authority: The legal authority for R.58-101 is S.C. Code Section 25-1-420 *et seq.*

156 PROPOSED REGULATIONS

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the *State Register*. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations. Printed copies will be made available at cost by request through the South Carolina Emergency Management Division.

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

Updating and clarifying emergency management standards at the state level will provide much needed guidance as well as explain the coordination between different areas of government.

DETERMINATION OF COSTS AND BENEFITS:

There should be no increased cost to the State or its political subdivisions from these proposed revisions. Amendments to R.58-101 will benefit the regulated community by streamlining and clarifying the existing regulation as well as outlining the roles of those responsible for emergency management.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

During an emergency, the effectiveness of emergency management operations are directly linked to the health and safety of the public. The proposed amendments to R.58-101 will help clarify and streamline the roles and responsibilities of emergency management which will thereby make operations more efficient during an emergency. There is no anticipated effect on the environment.

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

None.

Statement of Rationale:

The determination to amend this regulation was based on requests received by the South Carolina Emergency Management Division. The current regulation does not include the role of the Adjutant General. It is necessary to add the Adjutant General's roles and responsibilities to explain the coordination between different areas of government when responding to an emergency or disaster. It was also necessary to define the Governor's Command Section to clarify the chain of communications, coordination, direction, and control during an emergency. During an emergency situation, the clear delineation of roles and responsibilities is crucial to a successful operation and is directly linked to the health and safety of the public.

Text:

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

Document No. 4705

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-410 et seq.

61-33. Drycleaning Facility Restoration.

Preamble:

Regulation 61-33 has not been substantively updated since 1997. Revisions of Article 4 of the South Carolina Hazardous Waste Management Act, 1976 Code Section 44-56-410 et seq., on May 21, 2013 removed certain requirements of drycleaning facility and site owners to participate in the Drycleaning Restoration Trust Fund. As such, many of the procedures, practices, and terms of Regulation 61-33 are outdated and/or no longer applicable. The purpose of these amendments to R.61-33 is to revise and clarify criteria, procedures and standards for eligibility, moratorium, financial responsibility, facility prioritization, and restoration investigation and clean-up goals of drycleaning facilities and sites participating in the Drycleaning Facility Restoration Trust Fund. These proposed amendments provide updates to the definitions, removes requirements and procedures for documenting existing contamination, and removes requirements and procedures for certifying contractors. Additional changes include revising the regulation title, stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining/codification, and such other changes necessary to improve the overall quality of the regulation.

A Notice of Drafting was published in the *State Register* on July 22, 2016.

Section-by-Section Discussion of Proposed Amendments

The title of the Regulation is revised to reflect the title of the Act.

Citation of statutory authority for this regulation was modified under the title of the regulation and before the table of contents.

Throughout the regulation document, all defined terms have been capitalized.

Throughout the regulation document, the term “applicant” is replaced with “Responsible Applicant” to specify as the defined term for clarification.

TABLE OF CONTENTS

The table of contents was updated to reflect amended sections.

61-33.1. Purpose and Applicability

Section 33.1(A) - Revised to correctly name the Act. The criteria for determining eligibility is included in the Act. The Regulation is revised to remove the criteria as redundant.

Section 33.1(B)(1)(i) – The term “facility or site” is replaced with “Site” as defined.

Section 33.1(B)(2) – Revised to cite the Act in determining a “dry cleaner that has chosen not to participate” rather than a later section of the regulation.

Section 33.1(B)(3) – Revised to cite the Act regarding application of the regulation to a “dry cleaner owned by a government entity” delete rather than in a later section of the regulation.

61-33.2. Definitions

The definitions of 33.2(A) Acquired Subsidiary Business, 33.2(C) Analytical Data, 33.2(E) Certified Contractor, 33.2(F) Certified Laboratory, 33.2(G) Chain of Custody, 33.2(H) Commercial Property, 33.2(I) Contractor, 33.2(L) Discharge, 33.2(M) Dry Cleaner, 33.2(P) Drycleaning Waste, 33.2(Q) Due Diligence, 33.2(S) Environmental Sample, 33.2(T) Evidence of Contamination, 33.2(V) Exposed Individual, 33.2(Z) Non-

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Chlorinated Solvent, 33.2(AA) Operation, 33.2(CC) Probable Release Point, 33.2(FF) Reportable Quantity, and 33.2(GG) Wet Site are deleted because they are either no longer used in the regulation or are defined in the Act.

The definitions of 33.2(L) Ineligible, 33.2(M) New Drycleaning Facility, 33.2(N) Nonhalogenated Drycleaning Fluid, 33.2(Q) Release, and 33.2(S) Site are added.

The definitions of 33.2(B) Act, 33.2(J) Deductible, 33.2(E) Drycleaning Facility, 33.2(O) Drycleaning Solvents, 33.2(U) Existing Drycleaning Facility, 33.2(W) Former Wet Site, 33.2(Y) Gross Negligence, 33.2(O) Person, 33.2(P) Registrant, and 33.2(EE) Responsible Applicant are revised for clarification.

The remaining definitions are renumbered to adjust the codification.

61-33.4 [Reserved] Deleted as unnecessary.

Subpart A

The title of Subpart A is centered and italicize for stylistic change for internal consistency, and revised from “Assessments” to “Applications” to align with the removal of the requirement to document contamination before expenditure of Fund money from the Act.

61-33.5 [Reserved] Deleted as unnecessary.

61-33.6 General Provisions

Section 33.6 is revised in entirety to remove all activities for complying with the requirement to document contamination before expenditure of Fund money and to retain and clarify the process of applying for eligibility.

61-33.7 Due Diligence

Section 33.7 is revised to clarify the process, and specify the person responsible, for ensuring due diligence in the identification of all eligible Drycleaning Facilities.

Section 33.7(A)(1) is revised to remove the limit to commercial property only and to move the requirements for previously owned property to stand alone in Section 33.7(A)(2) which is revised as such.

Section 33.7(A)(2) is renumbered as Section 33.7(A)(3).

Section 33.7(C) is revised to include the requirement to submit an application for Former Drycleaning Facilities.

61-33.8 [Reserved] Deleted as unnecessary.

61-33.9 Documenting Evidence of Contamination

Section 33.9 is deleted in its entirety because this requirement was removed from the Act.

61-33.10 Initial Assessment Procedure

Section 33.10 is deleted in its entirety because this requirement was in partial fulfillment of Section 61-33.9.

61-33.11 [Reserved] Deleted as unnecessary.

66-33.12 Secondary Assessment Procedure

Section 33.12 is deleted in its entirety because this requirement was in partial fulfillment of Section 61-33.9.

66-33.13 Procedure for Obtaining Access to former Sites that the Applicant Does Not Own

Section 33.13 is deleted in its entirety because this requirement was in partial fulfillment of Section 61-33.9.

66-31.14 [Reserved] Deleted as unnecessary.

Subpart B Moratorium for Eligible Sites

The title of Subpart B is centered and italicize for stylistic change for internal consistency.

61-33.15 [Reserved] Deleted as unnecessary.

61-33.16 [Reserved] Deleted as unnecessary.

61-33.17 [Reserved] Deleted as unnecessary.

61-33.18 Moratorium for Eligible Sites

Section 33.18(A)(1) is revised to include all Sites rather than only Facilities.

Section 33.18(A)(2) is revised to include all solvent-containing waste rather than Drycleaning Solvents only.

Section 33.18(A)(3) is revised to match definitions.

Section 33.18(B) is deleted because the action is included in the Act and, therefore, is redundant.

Section 33.18(C) is deleted because the action is included in the Act and, therefore, is redundant.

Subpart C Financial Responsibility

The title of Subpart C is centered and italicize for stylistic change for internal consistency.

66-33.19 [Reserved] Deleted as unnecessary.

61-33.20 General Provisions

Section 33.20(A) is revised to clarify eligibility is through application rather than assessment and that surcharge and fee payments shall be current in addition to payment of deductible.

Section 33(D) is revised to clarify that judicial or administrative actions may be taken against responsible parties rather than all parties.

61-33.21 Transfer of Ownership

Section 33.21(A) is revised to specify who is responsible for notifying the Department of a change of ownership.

Section 33.21(A)(1) is revised for grammatical correctness.

Section 33.21(A)(2) is revised to specify information to be submitted with a change of ownership.

Section 33.21(B) is revised to include all Sites rather than only Drycleaning Facilities.

Section 33.21(C) is deleted because this requirement was in partial fulfillment of Section 61-33.9.

Section 33.12(D) is revised to correct references.

Section 33.21(E) is revised to restate more clearly the requirement of financial responsibility of a new owner.

61-33.22 [Reserved] Deleted as unnecessary.

61-33.23 Excluded Costs.

Section 33.21(B)(2) is revised to remove actions regarding certified contractors because that was a requirement in partial fulfillment of Section 61-33.9.

Section 33.23(B)(4) is deleted because this requirement was in partial fulfillment of Section 61-33.9.

Section 33.23(B)(5) is deleted because this requirement was in partial fulfillment of Section 61-33.9.

61-33.24 Reimbursements from the Fund

Section 33.24 is deleted in its entirety because reimbursements from the fund were for activity taken under Section 61-33.9.

61-33.26 [Reserved] Deleted as unnecessary.

61.33.27 Costs Incurred for Emergency Actions

Section 33.27 is revised to indicate eligibility is through application rather than assessment and that cost recovery can be sought from any Person, as defined, rather than a dry cleaner.

61-33.28 [reserved] Deleted as unnecessary.

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Subpart D Facility Prioritization

The title of Subpart D is centered and italicize for stylistic change for internal consistency.

61.33.29 [Reserved] Deleted as unnecessary.

61-33.30 General Provisions

Section 33.30(A) is revised for clarity.

Section 33.30(B)(1) is revised to update activity.

Section 33.30(C) is revised to include all Sites rather than Drycleaning Facilities.

Section 33.30(E) is revised for clarity.

Section 33.30(F) is revised to include all Sites rather than Drycleaning Facilities.

61-33.31 Immediate Removal Actions

Section 33.31(A) is revised to include all Sites rather than Drycleaning Facilities.

Section 33.31(A)(1) is revised for grammatical correctness.

Section 33.31(A)(3) is revised to conform with definitions.

Section 33.31(B) is revised to conform with definitions.

Section 33.31(B)(2) is revised to conform with definitions.

61.33.32 [Reserved] Deleted as unnecessary.

61.33.33 Emergency Sites

Section 33.33(B) is revised to include all Sites and to indicate that funds will be spent to reduce risk of exposure rather than requiring actual exposure.

61.33.34 Restoration Priority List

Section 33.34(A) is revised for clarification.

Section 33.34(A)(3) is revised for clarification.

Section 33.34(B) is deleted to allow the Department to budget fund expenditures throughout the year as needed.

Section 33-34(C)(1) is revised to agree with the deletion of Section 61.33.9.

Section 33.34(C)(3) is revised for grammatical correctness.

61-33.35 [Reserved] Deleted as unnecessary.

Subpart E Restoration

The title of Subpart E is centered and italicize for stylistic change for internal consistency.

61-33.36 [Reserved] Deleted as unnecessary.

61-33.37 General Provisions

Section 33.37(A) is revised to include all Sites and for grammatical correctness.

Section 33.37(B) is deleted because it is a superfluous statement repeating Statutory authority.

Section 33.37(C) is deleted because this use and certification of contractors was an activity in partial fulfillment of Section 61-33.9.

61-33.38 Detailed Facility Investigation

Section 33.38(A) is revised to include all Sites.

Section 33.38(C) is revised for clarification and correcting references.

61-33.39 Restoration Goals and Evaluation

Section 33.39(A)(2) is revised for grammatical correctness.

Section 33.39(C) is revised to include all Sites.

Section 33.39(D) is revised to include all Sites.

61-33.40 Restoration Implementation

Section 33.40(A) is revised for clarification and correcting references.
 Section 33.40(B) is revised for correcting references.

61-33.41 [Reserved] Deleted as unnecessary.

Subpart F Contractor Certification

Subpart F (Sections 61-33.42 through 61-33.49) is deleted in its entirety because certification of contractors was an activity in partial fulfillment of Section 61-33.9.

Subpart G Violations, Penalties, and Appeals

Subpart G (Sections 61-33.50 through 61-33.53) is deleted in its entirety because appeal authority appears in statute.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments on the proposed regulation by writing to G. Kendall Taylor, P.G., by mail at Bureau of Land and Waste Management, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201; by facsimile at (803) 898-1297; or by email at taylorgk@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on November 28, 2016, the close of the public comment period. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board of Health and Environmental Control's consideration at the public hearing notice below.

Interested persons may also make oral and/or written comments on the proposed amendments of R.61-33 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 8, 2016. The Board will conduct the public hearing in the Board Room, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, South Carolina 29201. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda published by the Department twenty-four (24) hours in advance of the meeting at the following address: <http://www.scdhec.gov/Agency/docs/AGENDA.pdf>. Persons desiring to make oral comments at the hearing are asked to limit their statements to five (5) minutes and, as a courtesy, are asked to provide written copies of their presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Copies of the proposed amendments for public comment as published in the State Register on October 28, 2016, may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. Click on the Land and Waste Management topic and scan down to the proposed amendments of R.61-33. A copy can also be obtained by contacting Tammy Whittle at the above address or by email at whittltc@dhec.sc.gov.

Preliminary Fiscal Impact Statement:

Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or state government due to any inherent requirements of this regulation. There are no external costs anticipated.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness is based on an analysis of the factors listed in S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

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DESCRIPTION OF REGULATION: R.61-33, *Drycleaning Facility Restoration*.

Purpose: The purpose of these amendments to R.61-33 is to revise and clarify criteria, procedures and standards for eligibility, moratorium, financial responsibility, facility prioritization, and restoration investigation and clean-up goals of drycleaning facilities and sites participating in the Drycleaning Facility Restoration Trust Fund. These proposed amendments provide updates to the definitions, removes requirements and procedures for documenting existing contamination, and removes requirements and procedures for certifying contractors. Additional changes include revising the regulation title, stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining/codification, and such other changes necessary to improve the overall quality of the regulation.

Legal Authority: 1976 Code Section 44-56-410 et seq.

Plan for Implementation: Upon approval by the General Assembly and publication in the *State Register* as a final regulation, a copy of R.61-33, which includes these latest amendments, will be available electronically on the Department's Laws and Regulations website under the Land and Waste category at: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/>. Subsequently, this regulation will be published in the South Carolina Code of Regulations. Printed copies will be available for a fee from the Department's Freedom of Information Office. The Department will also send an email to stakeholders, affected services and facilities, and other interested parties.

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

Regulation 61-33 has not been substantively updated since 1997. Revisions of Article 4 of the South Carolina Hazardous Waste Management Act, 1976 Code Section 44-56-410 et seq., on May 21, 2013 removed certain requirements of drycleaning facility and site owners to participate in the Drycleaning Facility Restoration Trust Fund. Therefore, many of the procedures, practices, and terms of Regulation 61-33 are outdated and/or no longer applicable. The amendments further clarify and improve the overall quality of the regulation.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of these amendments will not require additional resources. There is no anticipated additional cost to the Department or state government due to any inherent requirements of these amendments. There are no anticipated additional costs to the regulated community. Amendments to R.61-33 remove descriptions and instructions for actions that were required of the regulated community prior to the Act revisions but are now no longer required by Law.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The amendments to R.61-33 seek to support the Department's goals relating to the protection of public health and the environment through increased oversight of environmental cleanup and improved stewardship of the Trust Fund. There is no anticipated effect on the environment.

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

There is no anticipated detrimental effect on the environment. If the revision is not implemented, the regulation will be maintained in its current form without realizing the benefits of the amendments herein.

Statement of Rationale:

The Department proposes amending R.61-33, *Drycleaning Facility Restoration*, to better conform the regulation to the revised South Carolina Hazardous Waste Management Act, at 1976 Code Section 44-56-410 et seq. The amendments update R.61-33 to remove descriptions and instructions of activities that are no longer required of the regulated community as a result of revisions to the Act. Additional changes include revising the regulation title, stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining/codification, and such other changes necessary to improve the overall quality of the regulation.

Text:

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

Document No. 4704

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

Statutory Authority: 1976 Code Sections 44-29-150 through 44-29-170

61-22. The Evaluation of School Employees for Tuberculosis.

Preamble:

The Department has conducted a review of Regulation 61-22 pertaining to the evaluation and screening for tuberculosis for those working in schools and child care centers. As a result of the review, the Department is proposing to substantially amend R.61-22 in order to simplify and clarify the tuberculosis screening and evaluation requirements for schools and child care centers and to significantly reduce the financial and human resources burden on schools and child care centers created in prior revisions to R. 61-22, all while affording children greater protection against exposure to tuberculosis in these settings. The proposed amendments herein include the Department's effort to incorporate current tuberculosis evaluation and preventive treatment guidelines, update the screening and evaluation requirements for those working and volunteering in schools and child care centers, clarify language relating to the issuance of evaluation certificates, and provide for consistency with applicable state and federal laws. The title of the Regulation will also be revised.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Section-by-Section Discussion of Proposed Amendments

The title of R.61-22 has been changed to reflect the scope of the guidelines, which are not limited to employees or schools, but include certain non-employees and those who work in child care centers.

Section I. Purpose and Scope: Changes were made in this section to more accurately reflect the scope of the guidelines, which are not limited to employees of schools, but cover others who work in school environments and in child care centers. Changes were also made to clarify the purpose of the guidelines and to improve the section's readability.

Section II. Definitions: Wholesale changes were made to the Definitions section in order to bring clarity to the guidelines, remove unnecessary language, and improve accuracy and readability. Definitions were added to include the terms "Approved TB Screening Tests," "Department," "DHEC 1420," "disposition," "employee," "latent TB infection," "preventive treatment," "tuberculosis" or "TB," and "volunteer." Definitions of the following terms were deleted as being unnecessary, including "adequate treatment," "blood assay for

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mycobacterium tuberculosis (BAMT),” “legally authorized healthcare provider,” “new employee,” “non-reactor,” “non-routine testing,” “regular employee,” “school employees,” “treatment for tuberculosis infection (TTBI),” “tuberculin/BAMT positive reactor,” “tuberculin skin test (TST),” “tuberculosis infection,” and “two-step tuberculin skin test.” The definition of “tuberculosis disease” or “TB disease” was revised.

Section III. Guidelines for Screening and Evaluation, Subsection A: This section was renamed and significantly revised to simplify tuberculosis screening and evaluation requirements and to improve clarity. The revisions eliminated the ninety (90) day window for pre-employment testing and the two-step tuberculin skin tests as those requirements proved burdensome and confusing to school districts and others and are not necessary under best practices for tuberculosis screening. Instead, TB testing is specified as a prerequisite to employment and a condition for continued employment, with schools and child care centers given discretion to determine how far in advance of working with students the testing and documentation must be accomplished. These revisions reduce the burden on schools and child care centers, give them greater flexibility, while still ensuring that all persons are evaluated for tuberculosis before working or volunteering in a school or child care center.

Section III. Guidelines for Screening and Evaluation, Subsection B. Disposition Following Evaluation: This section was significantly revised to simplify the actions to be taken by schools and child care centers following tuberculosis evaluation. The revisions also eliminated the requirement for annual screening of all employees.

Section III. Guidelines for Screening and Evaluation, Subsection C. Documentation of results of screening and evaluation. This section was significantly revised to simplify the documentation needed to verify tuberculosis evaluation. Language was added to clarify documentation requirements for those who transfer from one location to another and for those who work in more than one location.

Section III. Guidelines for Screening and Evaluation, Subsection D. Non-routine screening. Minor revisions to this section were made to reflect the scope of the guidelines and their application to not only employees and schools, but also to certain non-employees of schools and child care centers. A subsection pertaining to education was added to recommend, but not require, annual public health instruction so that educators and those working in school and child care environments may gain additional knowledge regarding public health issues including, but not limited to, recognizing the signs and symptoms of tuberculosis.

Section IV. Additional Information and Forms. Only minor changes were made to improve clarity.

Appendix. Interpretation of the Tuberculin Skin Test (TST). The appendix was deleted in its entirety.

Notice of Public Hearing and Opportunity for Public Comments:

Interested persons are provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Melissa C. Overman, Assistant State Epidemiologist, Tuberculosis Control Program, Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201 or by email to overmamc@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on November 28, 2016, the close of the public comment period. Written comments received by the deadline, November 28, 2016, shall be considered by the Department in formulating the final proposed regulation for public hearing on December 8, 2016, as noticed below. The Department will submit a summary of public comments and Department responses to the Board for its consideration at the public hearing.

Interested members of the public and regulated community are also invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control on December 8, 2016. The Board will conduct the public hearing in the Board Room, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, South Carolina 29201. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda published by the Department twenty-four (24) hours in advance of the meeting at the following

address: <http://www.scdhec.gov/Agency/docs/AGENDA.pdf>. The agenda will also provide notice of cancellation or any change in meeting times. Persons desiring to make oral comments at the hearing are asked to limit their statements to five (5) minutes and, as a courtesy, persons are asked to provide written copies of their presentations for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Copies of the proposed regulation for public comment may be obtained by contacting Dr. Melissa C. Overman at the above address. Also, electronic copies of the proposed regulation will be available on the Department's Regulatory Development Update website at the following address: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. Click on the "Disease Control" category and scroll down for R.61-22.

Preliminary Fiscal Impact Statement:

There are no anticipated additional costs to the state and its political subdivisions. Employees in schools and child care settings are currently required by S.C. Code Section 44-29-160 to obtain certification from their physician prior to hire that they do not have tuberculosis in an active stage. In addition, these amendments are designed to lower the financial and human resources burdens on schools and child care centers while continuing to afford protection against tuberculosis in these settings consistent with best practices.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness is based on an analysis of the factors listed in S.C. Code Sections 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-22, The Evaluation of School Employees for Tuberculosis.

Purpose: The purpose of these amendments to R.61-22 is to update and clarify the guidelines for tuberculosis screening and evaluation of employees in school and child care settings. These amendments further clarify the language relating to the issuance of evaluation certificates and incorporate current evaluation and preventive treatment guidelines.

Legal Authority: 1976 Code Sections 44-29-150 through 44-29-170.

Plan for Implementation: Upon approval by the General Assembly and publication in the *State Register* as a final regulation, a copy of R.61-22, which includes these latest amendments, will be available electronically on the Department's Laws and Regulations website under the Bureau of Disease Control category at: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/>. Subsequently, this regulation will be published in the South Carolina Code of Regulations. Printed copies will be available for a fee from the Department's Freedom of Information Office.

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

The proposed amendments to R.61-22 are needed to update and clarify the guidelines for tuberculosis screening and evaluation of employees in school and child care settings. The amendments are reasonable as they accomplish their intended purpose of identifying high-risk school employees and will afford children greater protection against exposure to tuberculosis in these settings.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated additional costs to the state or its political subdivisions. Staff of schools and child care settings are currently required by S.C. Code Section 44-29-160 to obtain certification from their physician prior

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to hire that they do not have tuberculosis in an active stage. In addition, current R. 61-22 requires two tuberculin skin tests for all school and child care center staff as well as annual screening. These amendments, which lessen those requirements while continuing to afford protection against tuberculosis in these settings consistent with best practices, should lower the financial and human resources burdens on schools and child care centers.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Implementation of the proposed amendments herein will not compromise the protection of the environment or public health. The effect should be beneficial because the amendments ensure proper tuberculosis evaluation prior to initial hire, facilitate targeted testing of identified higher risk school employees and improve knowledge of tuberculosis disease, signs and symptoms, by staff of schools and child care centers.

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

There is no anticipated detrimental effect on the environment if the amendments are not implemented. Failure to amend the regulation could result in the lack of proper evaluation of employees for tuberculosis as well as an undue financial and human resources burden on schools and child care centers.

Statement of Rationale:

The Department proposes amending R.61-22, *The Evaluation of School Employees for Tuberculosis*, to incorporate current tuberculosis evaluation and preventive treatment guidelines, update the screening and evaluation requirements for school employees, clarify language relating to the issuance, completion and retention of evaluation certificates and language relating to requirements for new hires, and provide for consistency with applicable state and federal laws. The proposed amendments herein are needed to update and clarify the guidelines for tuberculosis screening and evaluation of employees in school and child care settings in South Carolina.

Text:

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

Document No. 4706
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-2-10 et seq.

61-92. Underground Storage Tank Control Regulations.

Preamble:

The Department proposes to amend R.61-92, Underground Storage Tank Control Regulations, Part 280. This amendment focuses on adopting the federal underground storage tank requirements of 40 CFR Section 280 effective October 13, 2015, and revising portions of R.61-92, Part 280 pertaining to compliance requirements of the UST Control Regulations. The Department proposes to reorganize the regulations for clarity and consistency with the format of the revised federal regulation effective October 13, 2015, along with other stylistic changes proposed to improve the overall quality of the Regulation.

A Notice of Drafting for these proposed amendments was published in the State Register on April 22, 2016.

Section-by-Section Discussion of Proposed Amendments:

Correct the statutory authority under the title of the regulation in the text.

Stylistic changes are proposed to improve the overall quality of the Regulation.

Throughout the document, the word “ground-water” and “ground water” is being changed to “groundwater”.

Throughout the document, the word “storm-water” and “stormwater” is being changed to “storm water”.

Throughout the document, where needed, all punctuation and capitalization errors were corrected.

Throughout the document, where needed, all sections were renumbered to standardize the codification.

TABLE OF CONTENTS

The table was revised to reflect the proposed amendments.

SUBPART A

In Subpart A, the following wording was removed from heading “Interim Prohibition” and replaced with “Installation Requirements for Partially Excluded UST Systems”.

61-92.280.10 Applicability

Section was revised to adopt federal requirements requiring all owners of airport hydrant fuel distribution systems and UST systems with field-constructed tanks to meet requirements of Subpart K. Section 61-92.280.10 was also revised to adopt federal requirements requiring all owners of UST systems that store fuel solely for use by emergency power generators to meet the release detection requirements previously deferred from Subpart D. In 280.10(a), “and” was added and the following was removed, “(d), and (e)” and “Any UST system listed in paragraph (c) of this section must meet the requirements of Section 280.11.”

The remainder of the paragraph revisions adopted only federal wording.

In 280.10(b), the word, “Exclusions” adopted from federal wording.

In 280.10(c), “Deferrals”, “and”, “any of the following types of UST systems” were removed and “Partial Exclusions” and, “J, and K of this part” were added from federal wording.

In 280.10(c)(1), “not covered under paragraph (b)(2) of this section” and “Aboveground storage tanks associated with; (i) Airport hydrant fuel distribution systems regulated under subpart K of this part; and (ii) UST systems with field-constructed tanks regulated under subpart K of this part;” were added from federal wording. Formatting change to match federal wording added a “(3)” and the word “and”.

The existing (3) was moved to (4) and revised to match federal wording by removing “3” and adding “4”, removing “regulated” and inserting “licensed”, removing “under” and inserting “and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to”, “part” and removing “Appendix A”.

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The following was removed, “(4) Airport Hydrant fuel distribution systems; and (5) UST systems with field-constructed tanks. (d) Deferrals. Subpart D does not apply to any UST system that stores fuel solely for use by emergency power generators.”

Existing paragraph 280.10(e) was changed by removing “e” and inserting “d”.

61-92.280.11 Installation Requirements for Partially Excluded UST Systems

In heading Section 280.11, “INTERIM PROHIBITION” and “DEFERRED” were removed and “INSTALLATION REQUIREMENTS” and “PARTIALLY EXCLUDED” was inserted.

Section was revised to remove outdated industry standards and include the current industry standards and recommended practices by nationally recognized organizations.

61-92.280.12 Definitions

All definitions were indexed using letters for clarity.

The definition for "class A operator" was added to match the federal regulations.

The definition for "class B operator" was added to match the federal regulations.

The definition for "class C operator" was added to match the federal regulations.

The definition for "containment sump" was added to match the federal regulations.

The definition for "critical area" was revised to clarify beaches and beach/dune systems. Also, the reference to the office of Ocean and Coastal Resource Management Regulations was deleted and "which is the area from the mean high-water mark to the setback line as determined by Section 48-39-280" was added for clarification.

The definition for "dispenser" was added to match the federal regulations.

The definition for "dispenser system" was added to match the federal regulations.

The definition for "flow-through process tank" was revised to change the last word from “products” to "process" to match the federal regulations.

The definition for "motor fuel" was revised to match the federal regulation.

The definition for “navigable waters” was revised to include Department determination of the definition by adding, “or”, “.2.C” for clarity and “Navigability shall be determined by the Department”.

The definition for “regulated substance” was revised in paragraph 1 to remove the wording “the Comprehensive Environmental Response Comprehension and Liability Act” because “CERCLA” was previously defined and “RCRA” was added to clarify “subtitle C” verbiage. In paragraph 2 “and petroleum products” was added and the remainder was removed for clarity.

The definition for "release detection" was revised to include "a leak has occurred" to match the federal regulations.

The definition for "repair" was revised to match the federal regulations to explain what a repair means.

The definition for "replace" was revised to include federal regulations with existing state regulations.

The definition for "secondary containment" was revised to match the federal regulations and include minor changes for clarity from SC to explain design must contain any leak from components within the containment area.

The definition for “solid waste disposal act” was added for clarity with respect to RCRA.

The definition for "training program" was added to match the federal regulation.

The definition for "under dispenser containment" was revised to match the federal regulation to clarify it is considered as containment.

The definition for "underground storage tank" was revised to include necessary portions of the federal regulations and to match existing contents of the SUPERB statute.

61-92.280.20 Performance Standards for New UST Systems

Section was revised to include wording to match the federal regulations and existing trigger dates from South Carolina for secondary containment requirements on new or replaced tanks and/or piping installations. Throughout the section, all “note to paragraph” paragraphs were amended to remove outdated industry standards and include the current industry standards and recommended practices by nationally recognized organizations. Where needed, all sections were renumbered to standardize the codification.

In paragraph (c), added “transfer” from the federal regulation to clarify the “operator” mentioned is in reference to the delivery driver. Added wording to match the federal regulations to no longer allow owners and operators to install or replace overfill prevention using a vent line flow restrictor (ball-float vent valve) on new or existing UST systems. Added wording to match federal regulations to require periodic testing for spill and overfill equipment.

In paragraph (d), deleted the word “new” to denote drop tube requirements are for all UST systems, not just new ones.

In paragraph (e), replaced “all tanks and piping” with “The UST system” to match federal regulation.

In paragraph (f), added wording to match federal regulation reference to another paragraph for clarity.

In paragraph (g), added all new wording to match federal regulation in reference to under dispenser containment requirements.

In paragraph (h), adopted wording from existing current regulation paragraph (g) and revised to delete the reference to require UST tanks and piping to be secondarily contained if installed within 1,000 feet of public water supply system. Wording added to match federal regulation to provide deferral of Subpart D for European suction piping. All wording removed from existing paragraph (h) requiring tanks and piping within 100 feet of a public water supply well, coastal zone critical area, or state navigable waters. The revised regulation will require all new UST tanks and piping to be secondarily contained.

61-92.280.21 Upgrading of Existing UST Systems

Includes the federal regulation requirements for owners and operators to permanently close any UST system that has not met the new performance standards or has not been upgraded. This section does not apply to airport hydrant systems and field-constructed tanks. Federal wording included to require owners and operators with internal lining to permanently close tanks if liner cannot be repaired. Section adds industry codes of practice per federal requirements.

61-92.280.22 Notification Requirements

Amended all paragraphs of this section, where needed, wording revised to match federal regulation requirements for addition of current codes of practice and requirement of owners to notify the Department when they have assumed ownership with minor revisions from SC for reporting on proper forms approved by the Department.

61-92.280.23 New Tanks-permits required

In paragraph (a), replaced “construction” with “installation” for standardization with current permit applications. In paragraph (b), revised current regulation to properly describe “permit to operate” for standardization and to utilize current terminology used on Department forms. Changed paragraph reference to encompass all required sections for properly completing application for permit to operate.

In paragraphs (e)-(l), all references to delivery prohibition were deleted and moved to Section 280.26.

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61-92.280.24 Testing

In paragraph (a), revised current regulation wording to incorporate proper industry standards and manufacturer protocols for secondary containment equipment to be consistent with federal regulatory requirements.

In paragraphs (b) and (c), removed “hydrostatically” and added “functionality” to incorporate federal regulatory testing requirements. (...“tightness” refers to tank and line testing, “functionality” refers to release detection equipment testing that is not containment, thus not tested for tightness).

In paragraph (d), added state revisions for reporting on forms approved by the Department.

61-92.280.25 Secondary containment required

Revised section heading to match all other section headings to incorporate the word “Section”.

In paragraph (a) changed "shall" to "must".

In paragraphs (a) and (b), changed section reference from “g” to “h” to reflect proper section where secondary containment reference is located.

61-92.280.26 Delivery Prohibition (formerly 61-92.280.23)

Section was created to allow relocation of the requirements for delivery prohibition from former Section 280.23.

In paragraph (a), added “required secondary containment is not installed; or” to ensure where secondary containment is required the Department has authority to prevent deliveries for ensuring compliance.

In paragraph (c), added “alleged” to properly reflect wording on Department issued forms. Inserted “components” for clarity that as all metal components that routinely contain product must be protected from corrosion.

In paragraph (d), added similar wording from (a)(6) to clarify Department's authority to impose delivery prohibition for other conditions that may threaten the public or the environment.

In paragraph (e), paragraph references were changed because of delivery prohibition section relocation. In paragraph (e)(2), to clarify why DP sites are listed on the website, for notification of owner/operator and supplier.

In paragraph (f), added wording on how the Department will notify owner/operator about delivery prohibition implementation.

In paragraph (g), added wording on how the Department will notify owner/operator and the supplier about delivery prohibition implementation.

In note to Section 280.26, added reference to new section location for standardization.

61-92.280.30 Spill and overfill control

Section revised to remove outdated industry standards and include current codes of practice to match federal regulation.

61-92.280.31 Operation and maintenance of corrosion protection

Section revised to adopt federal wording requiring tank owners to permanently close tanks if corrosion protection is not maintained in accordance with this section or if the UST system undergoes a change-in-service.

In note to paragraph (b), revised to remove outdated industry standards and include current codes of practice to match federal regulation.

61-92.280.32 Compatibility

Section revised to adopt federal wording requiring tank owners to notify of changes in service to alternative fuels (greater than 10% ethanol or greater than 20% biodiesel).

In note to Section 280.32, revised to remove outdated industry standards, update name of current code of practice and include current codes of practice to match federal regulation.

61-92.280.33 Repairs allowed

In note to paragraph (a) revised to standardize the codification and, where needed, revised wording and include current codes of practice to match federal regulation requirements with minor state change for reporting on Department approved forms.

In paragraph (c), changed “fiberglass” to “non-corrodible” to match federal wording and inserted state clarification wording for additional reference.

In paragraph (d), revised per federal requirements by adding testing requirements following repairs.

In note to paragraph (d) revised to standardize the codification and, where needed, revised wording and include current codes of practice to match federal regulation requirements.

In paragraph (e), minor state change for reporting on Department approved forms.

In paragraph (f), revised paragraph by adding federal wording to meet federal and state specific to require testing on Department approved forms.

In paragraph (g), added federal wording to match federal regulation.

61-92.280.34 Reporting and recordkeeping

Section revised to include state wording requiring owners/operators to provide access to all UST equipment at inspection, document testing results done in conjunction with proper repairs allowed, and in paragraphs where needed, renumbered to standardize the codification.

Where needed throughout section, federal wording inserted to match federal regulation for notification purposes.

In paragraph (b)(4), inserted state wording “and testing results” to document that the testing was completed properly.

61-92.280.35 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment

Amended section to delete and move all references of Operator Training to Subpart J to match codification of federal regulation. All wording revised to provide variation in testing frequency for spill prevention, secondary containment, and overfill prevention equipment to match federal regulation.

61-92.280.36 Periodic operation and maintenance walkthrough inspections

Section revised to adopt federal wording requiring owners to complete walkthrough inspections.

Adding state revisions from state revisions for reporting on forms approved by the Department.

61-92.280.40 General requirements for all UST systems

In paragraph (a), per federal requirements, removed existing wording to include all UST systems.

In paragraph (a)(3), revised to include current codes of practice and match federal regulation and added state revisions for reporting on forms approved by the Department.

In paragraph (a)(4), moved existing wording from (a)(3) and revised to match federal regulation.

In paragraph (b), revised wording to match federal regulation references.

In paragraph (c), all existing wording and table removed to match federal regulation.

Moved and revised existing wording from paragraph (d) to (c) and revised to match the federal regulation.

61-92.280.41 Requirements for petroleum UST systems

Where needed, paragraphs were renumbered to standardize the codification and revised to match federal regulation.

Adopted federal requirements for interstitial monitoring.

Removed state wording allowing monthly inventory control as a release detection method.

61-92.280.42 Requirements for hazardous substance UST systems

Where needed, paragraphs were renumbered to standardize the codification and revised to match federal regulation.

Adopted federal language to clarify the existing requirement for interstitial monitoring on hazardous substance systems.

Revised wording for "release" to "leak" to match federal regulations.

61-92.280.43 Methods of release detection for tanks

Throughout section, where needed, the word “release” was replaced with “leak” to match federal wording and follow changes in definition to match federal regulation.

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

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In paragraph (a) revised state wording for clarity that inventory control is no longer a valid release detection method since being phased out in 2008.

In note to paragraph (a), revised to reflect name change when code of practice updated to match federal regulation.

In paragraph (b), outdated state wording and table removed to reflect phase out of larger tanks no longer allowed to do manual tank gauging as stand-alone monthly monitoring for tanks larger than 550 gallons.

In paragraph (d), revised to remove state wording and added federal wording to explain standard and continuous modes of leak detection utilizing tank gauges to match federal regulation.

In paragraphs (e)(6) and (f)(7) revised regulation to clarify requirement for all owners using groundwater and vapor monitoring as release detection to conduct a onetime site assessment at the time of permitting or within one year of the regulation effective date.

Added federal wording to clarify statistical inventory reconciliation method.

61-92.280.44 Methods of release detection for piping

In paragraph (a), inserted reference from previous section where federal regulation imposed new testing requirements for leak detection equipment.

In paragraph (c), inserted reference from previous section where federal regulation refers to tank monthly monitoring may be used for monthly monitoring (0.2 gallon per hour) on piping if the method is capable of piping monitoring.

Added federal wording to clarify statistical inventory reconciliation method.

61-92.280.45 Release detection recordkeeping

Throughout the section, removed outdated state wording and federal wording inserted to match the federal regulation.

In paragraph (a), inserted federal wording requiring site assessment reports must be retained as long as groundwater monitoring or vapor monitoring methods are used for monthly leak detection.

In paragraph (b), inserted federal wording requiring results of sampling, testing, or monitoring be maintained for a year or another reasonable time determined by the Department to standardize the records keeping timeframe.

61-92.280.50 Reporting of suspected releases

The reporting requirement of 72 hours for owners and operators to report suspected releases was revised to 24 hours to match the federal regulations.

Throughout the section, outdated state wording concerning inventory control was removed.

Federal wording concerning reporting of suspected releases was added to clarify existing state regulations.

61-92.280.51 Investigations due to off-site impacts

No changes.

61-92.280.52 Release investigation and confirmation steps

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

In paragraph (b), inserted state wording requiring test results be submitted in a format as directed by the Department.

61-92.280.53 Reporting and cleanup of spills and overfills

The reporting requirement of 72 hours for owners and operators to report suspected releases was revised to 24 hours to match the federal regulations.

Note to paragraph (a) was added to meet the federal regulation and existing note to section was deleted to match federal regulation.

61-92.280.60 General

No changes.

61-92.280.61 Initial response

Section was revised from a requirement of 72 hours for owners and operators to respond to a suspected release to 24 hours to match the federal regulations.

61-92.280.62 Initial abatement measures and site check

Throughout the section, changes to grammar were made to remove state wording and insert wording to match federal regulation requirements.

61-92.280.63 Initial site characterization

Throughout the section, changes to grammar were made to remove state wording and insert wording to match federal regulation requirements.

61-92.280.64 Free product removal

Throughout the section, changes for punctuation to remove state wording and insert wording to match federal regulation requirements.

61-92.280.65 Investigations for soil and groundwater cleanup

Throughout the section, changes to grammar were made to remove state wording and insert wording to match federal regulation requirements.

61-92.280.66 Corrective action plan

Throughout the section, changes to grammar were made to remove state wording and insert wording to match federal regulation requirements.

61-92.280.67 Public participation

No changes.

61-92.280.70 Temporary closure

In paragraph (a), added federal wording to include airport hydrant systems and field-constructed tanks
Federal wording is added to remove release detection operation and maintenance testing and inspections when UST systems are empty.

Federal wording is added to remove spill and overfill operation and maintenance testing and inspections when UST systems are empty.

61-92.280.71 Permanent closure and changes-in-service

Removed state wording and inserted federal wording to match federal regulation.

Added state wording to require owners and operators to notify the Department in writing of their intent to permanently close, make a change-in-service, replace piping or dispenser. This was added to ensure that the Department can provide adequate compliance assistance.

In paragraph (c), state wording added to clarify that a change in service also includes switching from non-regulated substance to regulated substance.

In note to section, updated current code of practice titles, removed outdated codes of practice, and inserted new ones to match the federal regulation.

61-92.280.72 Assessing the site at closure and change-in-service

Throughout the section, changes to grammar and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.73 Applicability to previously closed UST systems

Throughout the section, changes to grammar to match federal regulation requirements.

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61-92.280.74 Closure records

Throughout the section, changes to grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

State wording revised “mailing” to “submitting” to allow for other forms of document transfer to the Department.

61-92.280.90 Applicability

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.91 Compliance dates

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.92 Definition of terms

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

Paragraph (c) was revised to expand the definition of Chief Financial Operator with excerpt derived directly from EPA guidance, “Financial Responsibility For Underground Storage Tanks: A Reference Manual”.

Paragraph (t) added to match federal regulation for clarity on the word, “termination” as it pertains to financial responsibility and substitute coverage.

61-92.280.93 Amount and scope of required financial responsibility

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.94 Allowable mechanisms and combinations of mechanisms

Throughout the section, changes for punctuation, renumbering, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.95 Financial test of self-insurance

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.96 Guarantee

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.97 Insurance and risk retention group coverage

Throughout the section, changes for punctuation, grammar and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.98 Surety bond

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.99 Letter of credit

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

State wording added to paragraph (b) to require banks to notify the Department (in addition to owners and operators) prior to cancelation of a letter of credit. This addition will assist the Department to ensure that owners and operators maintain financial responsibility.

61-92.280.100 Use of state-required mechanism (Reserved)

No changes.

61-92.280.101 State fund or other state assurance

Throughout the section, changes to grammar and revisions made to remove state wording to match federal regulation requirements.

61-92.280.102 Trust fund

Throughout the section, changes for grammar were made.

61-92.280.103 Standby trust fund

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal regulation requirements.

Insert state wording to clarify the statement is only applicable to standby trust agreements.

61-92.280.104 Local government bond rating test

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.105 Local government financial test

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.106 Local government guarantee

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.107 Local government fund

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.108 Substitution of financial assurance mechanisms by owner or operator

Throughout the section, changes for grammar made.

61-92.280.109 Cancellation or nonrenewal by a provider of financial assurance

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

State wording added to require a provider of financial assurance to notify the Department prior to cancellation or failure to renew an assurance mechanism. This addition will help the Department to ensure that owners and operators maintain financial responsibility.

61-92.280.110 Reporting by owner or operator

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.111 Recordkeeping

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

In paragraph (b)(8), state wording removed to no longer require owners and operators to maintain proof of financial responsibility on site. Owners and operators will be allowed to maintain proof of financial responsibility on file whether it be on site or at a remote location. Change was made to revert back to the federal requirement to alleviate the paperwork burden on the owner/operator.

Added state revisions for reporting on forms approved by the Department.

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Revised state wording on certificate of financial responsibility form for clarity.

61-92.280.112 Drawing on financial assurance mechanisms

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

61-92.280.113 Release from the requirements

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

Section was revised to remove requirement for owners and operators to maintain financial responsibility after a tank has undergone a change-in-service.

61-92.280.114 Bankruptcy or other incapacity of owner or operator or provider of financial assurance

Throughout the section, changes for grammar made.

61-92.280.115 Replenishment of guarantees, letters of credit, or surety bonds

Throughout the section, changes for grammar, and revisions made to remove state wording to match federal regulation requirements.

61-92.280.116 Suspension of enforcement (Reserved)

No changes.

61-92.280.200 Definitions

Throughout the section, changes for punctuation, grammar, and revisions made to remove state wording and insert federal wording to match federal regulation requirements including reference to new subparts.

61-92.280.210 Participation in management

Throughout the section, changes for grammar, and revisions made to insert federal wording to match federal regulation requirements.

61-92.280.220 Ownership of an underground storage tank or underground storage tank system or facility or property on which an underground storage tank or underground storage tank system is located

Throughout the section, changes for grammar made.

61-92.280.230 Operating an underground storage tank or underground storage tank system

Throughout the section, changes to grammar and revisions made to remove state wording and insert federal wording to match federal regulation requirements.

SUBPART J Operator Training

Subpart renamed to match federal regulation location for operator training requirements.

61-92.280.240 General requirement for all UST systems

Throughout the section, changes for punctuation, grammar, renumbering, and revisions made to insert state wording for development of supplemental training for new regulation requirements to reduce the burden on operators for ease of compliance, and insert federal wording to meet new federal regulation requirements.

61-92.280.241 Designation of Class A, B, and C operators

Throughout the section, insert federal wording to meet new federal regulation requirements.

61-92.280.242 Requirements for operator training

Throughout the section, revisions made to insert federal wording to meet new federal regulation requirements. State wording inserted "as approved by the Department" in reference to Class A, B, & C operator training requirements.

In paragraph (a), inserted state wording to include “as approved by the Department” in reference to Class B operator training requirements.

In paragraph (b), inserted state wording to include “as approved by the Department” in reference to Class B operator training requirements.

In paragraph (b)(2), inserted “state” and “and” for clarification of what B operator is required to know and what skills are needed to comply.

61-92.280.243 Timing of operator training

Throughout the section, revisions made to insert federal wording to meet new federal regulation requirements.

61-92.280.244 Retraining

Throughout the section, changes made to insert state wording to provide Department ability to approve external operator training programs to be used in SC and adding federal wording to meet new federal regulation requirements.

Addition of state wording to clarify the timeliness of supplemental training requirements.

61-92.280.245 Documentation

Throughout the section, revisions made to insert federal wording to meet new federal regulation requirements.

SUBPART K UST Systems with Field-Constructed Tanks and Airport Hydrant Fuel Distribution Systems

Subpart created to match federal regulation location for new requirements on previously deferred UST systems.

61-92.280.250 Definitions

Insert federal wording to meet new federal regulation requirements.

61-92.280.251 General requirements

Insert federal wording to meet new federal regulation requirements.

Addition of state wording to reference EPA form or form approved by the Department.

61-92.280.252 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems

Insert federal wording to meet new federal regulation requirements.

In paragraph (d)(2)(iv), inserted state wording, “perform”, to provide clarification in reference to the method mentioned as a requirement. “Perform” was added to be consistent with previous paragraphs from the federal regulation.

SUBPART L Variances - Violations and Penalties - Appeals

Subpart created to relocate previously existing Subpart J

61-92.280.300 Variances

No changes.

61-92.280.301 Violations and penalties

No changes.

61-92.280.302 Appeals

No changes.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons are provided an opportunity to submit written comments on the proposed regulations by writing to Eric F. Cathcart by mail at Bureau of Land & Waste Management, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; by facsimile at (803) 898-0673; or

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by e-mail at cathcaef@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on November 28, 2016, the close of the public comment period. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board of Health and Environmental Control's consideration at the public hearing as noted below.

Interested members of the public and regulated community are also invited to make oral and/or written comments on the proposed amendments of R.61-92 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 8, 2016. The Board will conduct the public hearing in the Board Room, Third floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, South Carolina 29201. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda published by the Department twenty-four (24) hours in advance of the meeting at the following address: <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and, as a courtesy, are asked to provide written copies of their presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Copies of the proposed amendments for public comment as published in the *State Register* on October 28, 2016 may be obtained online in the DHEC Regulation Development Update at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>. Click on the Land & Waste Management category and scan down to the proposed amendments of R.61-92. A copy can also be obtained by contacting Eric F. Cathcart at the above address or by email at cathcaef@dhec.sc.gov.

Preliminary Fiscal Impact Statement:

The proposed regulations will have no substantial fiscal or economic impact on the State or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or State Government due to any inherent requirements of this regulation.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness and Rationale was determined by staff analysis pursuant to S.C. Code Sections 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-92, Underground Storage Tank Control Regulations.

Purpose: Pursuant to S.C. Code Section 44-2-10 et seq., the South Carolina Department of Health and Environmental Control (Department) proposes to amend South Carolina Regulation 61-92, *Underground Storage Tank Control Regulations*, Part 280. This amendment will focus on adopting the federal underground storage tank requirements of 40 CFR Section 280 effective October 13, 2015, and revising portions of R.61-92, Part 280 pertaining to compliance requirements of the UST Control Regulations. The Department proposes to reorganize the regulations for clarity and consistency with the format of the revised federal regulation effective October 13, 2015, along with other stylistic changes proposed to improve the overall quality of the regulation.

Legal Authority: 1976 Code Section 44-2-10, et. seq.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly, and publication in the *State Register*. An electronic copy of R.61-92, which includes these latest amendments, will be published on the Department's Regulation Development website at: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations>. At this site, click on the Land & Waste Management category and scroll down to R.61-92. Subsequently, this regulation will be published on

the S.C. Legislature website in the S.C. Code of Regulations. Printed copies will be made available at cost by request through the DHEC Freedom of Information Office.

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

The proposed amendments are needed to realize the following anticipated benefits:

1. The Department proposes to adopt the federal underground storage tank requirements of 40 CFR Section 280 effective October 13, 2015 that are not in existing R.61-92. This will demonstrate that the Department operates a program that is no less stringent than the federal requirements.
2. The Department proposes to incorporate new federal underground storage tank requirements of 40 CFR Section 280 while maintaining existing R.61-92 requirements.
3. The Department proposes to revise portions of R.61-92 by incorporating state specific changes to enhance or clarify regulations. The revisions seek to ensure releases from underground storage tanks are minimized, protect the human health and environment, and reduce the financial liability on the State Underground Petroleum Environmental Response Bank (SUPERB) Account and the SUPERB Financial Responsibility Fund as it pertains to assessment, corrective action, and third party liability claims for petroleum releases from UST systems.
4. The Department proposes to reorganize the regulations for clarity and consistency with the format of the revised federal regulation effective October 13, 2015, along with other stylistic changes proposed to improve the overall quality of the Regulation.

The above amendments are reasonable to realize the above benefits because they provide an efficient procedure without any anticipated cost increase, provide clear standards and criteria for the regulated community, and support Department goals.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated cost increases to the State or permittees in complying the proposed amendments specific to South Carolina. The changes are as follows: compatibility notification when changing tank contents from unregulated to regulated products, notification change for delivery prohibition, clarification of the definition for chief financial officer, notification of the Department on letters of credit, and change in acceptable location of the certificate of financial responsibility. Though the above variables prevent putting forth an exact cost number applicable to all permittees, the proposed amendments will benefit the regulated community by ensuring that releases from underground storage tanks are minimized, protecting human health and the environment, especially near environmentally sensitive and critical areas, and reducing the financial liability on the State Underground Petroleum Environmental Response Bank (SUPERB) Account and the SUPERB Financial Responsibility Fund as it pertains to assessment, corrective action, and third party liability claims for petroleum releases from UST systems.

The federal amendments include the following: removal of deferrals for airport hydrant systems and field constructed tanks, release detection for new and existing USTs supplying emergency generators, closure if internal lining not repairable, notification of ownership changes, record-keeping requirements for groundwater and vapor monitoring for release detection, release report timing changes, removal of allowance for ball float vent valves in new installations and no longer allowed if not repairable, notification of product compatibility, testing requirements for release detection monitoring equipment, testing requirements for containment sumps, testing requirement for overfill devices, testing requirement for overfill protection (spill buckets), addition of walkthrough compliance inspections by owners and operators, secondary containment requirement on all new installed underground tanks and piping, under dispenser containment required for all newly installed dispensers.

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Costs associated with these amendments may occur when permittees are required to upgrade existing UST systems, install new systems, upgrade monitoring equipment, or educate staff on new inspection requirements. Though the above variables prevent putting forth an exact cost number applicable to all permittees, implementation of the amendments will benefit the regulated community by ensuring that releases from underground storage tanks are minimized, protecting human health and the environment, especially near environmentally sensitive and critical areas, and reducing the financial liability on the State Underground Petroleum Environmental Response Bank (SUPERB) Account and the SUPERB Financial Responsibility Fund as it pertains to assessment, corrective action, and third party liability claims for petroleum releases from UST systems.

Federal amendments, such as walkthrough inspections, overfill/spill prevention equipment inspections, and containment sump testing may not have a one-time (up front) cost associated, but there may be a reoccurring operation and maintenance cost. Other amendments, such as the performance of site assessments for sites using vapor or groundwater monitoring for release detection, elimination of flow restrictors in vent lines for all new tanks and when overfill prevention equipment is replaced, operability tests of release detection equipment, will incur a one-time cost without continued operation and maintenance costs.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or permittees.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to R.61-92 seek to support the Department's goals relating protection of public health and the environment through the anticipated benefits highlighted above. There is no anticipated effect on the environment.

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

There is no anticipated detrimental effect on the environment associated with these amendments.

Statement of Rationale:

The Department proposes to amend R.61-92, *Underground Storage Tank Control Regulations*, Part 280. This amendment focus on adopting the federal underground storage tank requirements of 40 CFR Section 280 effective October 13, 2015, and revise portions of R.61-92, Part 280 pertaining to compliance requirements of the UST Control Regulations. The Department proposes to reorganize the regulations for clarity and consistency with the format of the revised federal regulation effective October 13, 2015, along with other stylistic changes proposed to improve the overall quality of the Regulation.

Text:

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

Document No. 4675
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Section 1-13-70

65-2. Complaint.

Preamble:

Regulation 65-2 governs the requirements for the Agency's acceptance and retention of formal complaints of discrimination under the Human Affairs Law. Current language in the regulation requires notarization of all complaints. The proposed amendments would eliminate the need for notarization on the complaint form, and would instead reflect the statutory requirement that the complainant swear or affirm the allegations of the complaint under oath.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion

B. Changes the requirement of notarization to reflect that a complaint must be signed under oath.

Notice of Public Hearing and Opportunity for Public Comment:

A Public Hearing will be held on November 30, 2016, at 10:00 AM in the Board Room of the Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, SC 29201. The South Carolina Human Affairs Commission proposes to amend Regulation 65-2, Complaint.

Written comments should be submitted in writing to Lee Ann W. Rice, Staff Counsel, 1026 Sumter Street, Suite 101, Columbia, SC 29201. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to Regulation 65-2.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 65-2. Complaint.

Purpose: The regulation governs the requirements for acceptance and retention of formal complaints of discrimination under the Human Affairs Law.

Legal Authority: 1976 Code Section 1-13-70.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

As reflected in 1976 Code Sections 1-13-90, every complaint of discrimination must be in writing under oath or affirmation. The proposed amendments will eliminate the unnecessary requirement of notarization by the complainant, and will parallel the requirements of the Agency's federal counterpart, the Equal Employment Opportunity Commission, thereby making the respective practices of the two entities substantially similar.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

Statement of Rationale:

Regulation 65-2, Complaint, should be changed to eliminate the unnecessary requirement of notarization on the Complaint Form, and should instead reflect the statutory requirement of a statement that is made under oath or affirmation. The proposed amendments will parallel the requirements of the Agency's federal counterpart, the Equal Employment Opportunity Commission, thereby making the respective practices of the two entities substantially similar, which is required by the *Worksharing Agreement* between the Agency and the Equal Employment Opportunity Commission.

Text:

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

Document No. 4676
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Section 1-13-70

65-22. Employment Records to be Retained for Six Months.

Preamble:

Regulation 65-22 requires state agencies to retain personnel and employments records for six months.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion

Repeal this regulation.

Notice of Public Hearing and Opportunity for Public Comment:

A Public Hearing will be held on November 30, 2016, at 10:00 AM in the Board Room of the Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, SC 29201. The South Carolina Human Affairs Commission proposes to amend Regulation 65-22, Employment Records to be Retained for Six Months.

Written comments should be submitted in writing to Lee Ann W. Rice, Staff Counsel, 1026 Sumter Street, Suite 101, Columbia, SC 29201. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-22.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 65-22. Employment Records to be Retained for Six Months.

Purpose: The regulation governs the requirements for state agencies in preserving employment records

Legal Authority: 1976 Code Section 1-13-70.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

Federal guidelines, including but not limited to the Recordkeeping Obligations found in 29 CFR Part 1602, require that the records identified in Regulation 65-22 should be retained for more than six months. Eliminating the regulation prevents miscommunication regarding an expectation of record retention.

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DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

Statement of Rationale:

Regulation 65-22 may confuse state agencies and may lead an agency to understand that records need only be retained for a period of six months, when in fact, federal recordkeeping obligations require longer retention periods for state agencies and other employers.

Text:

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

Document No. 4677
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Section 1-13-70

65-3. Investigation and Production of Evidence.

Preamble:

Regulation 65-3 governs procedures for Agency investigations based on complaints of unlawful conduct under the Human Affairs Law.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion

- A.(5) Reflects the statutory language related to the scope of investigations before the commission.
- A.(6) Reflects the statutory authority granted to the commission for seeking information from the parties.
- B.(1) Eliminates the unnecessary step of having Agency investigators informally request information prior to submitting formal requests for information to parties in an investigation.

- B.(2) States that, at any reasonable time after a charge has been filed, an investigator may formally request access, via certified mail, to any relevant records and documents in possession of a person involved in the investigation. Renumbered for clarity.
- B.(3) Invokes the term ‘formal request’ and is renumbered for clarity.
- B.(4) Renumbered for clarity.
- B.(5) Renumbered for clarity.
- B. (6) Shortens the timeframe for parties to request modification or revocation of subpoenas. Renumbered for clarity.
- B.(7) Shortens the timeframe for moving for enforcements of a subpoena. Renumbered for clarity.
- B.(8) Reflects the statutory authority granted to the commission for seeking information from parties during the course of an investigation. Renumbered for clarity.
- B.(9) Renumbered for clarity.
- B.(10) Shortens the timeframe for moving for enforcements of a subpoena. Renumbered for clarity.
- B.(11) Renumbered for clarity.
- B.(11)(a) Corrects the citation for referencing the Freedom for Information Act. Renumbered for clarity.
- B.(11)(d)(i) Should be amended to provide Complainants and Respondents with equal access to the Agency’s investigative files. Renumbered for clarity.
- B.(11)(d)(ii) Should be amended to provide Complainants and Respondents with equal access to the Agency’s investigative files. Renumbered for clarity.

Notice of Public Hearing and Opportunity for Public Comment:

A Public Hearing will be held on November 30, 2016, at 10:00 AM in the Board Room of the Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, SC 29201. The South Carolina Human Affairs Commission proposes to amend Regulation 65-3, Investigation and Production of Evidence.

Written comments should be submitted in writing to Lee Ann W. Rice, Staff Counsel, 1026 Sumter Street, Suite 101, Columbia, SC 29201. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-3.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 65-3. Investigation and Production of Evidence.

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Purpose: The regulation governs the procedures for the Agency to investigate complaints of unlawful conduct as defined by the Human Affairs Law. Explains the mechanisms for obtaining relevant information from parties in an Agency investigation. Guides the Agency on disclosure of file contents.

Legal Authority: 1976 Code Section 1-13-70.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

This regulation provides guidance to the Agency regarding the investigation procedures for complaints of unlawful discrimination. The proposed amendments will clarify the scope of the Agency's investigation and ability to seek information from the parties by reflecting language found in the statute. The amendments eliminate an unnecessary step in gathering necessary information for an investigative file, which shortens the duration of the pending investigation. Furthermore, the amendments will properly cite the Freedom of Information Act exception intended for Agency investigations under the Human Affairs Law. Finally, the amendments will provide equal access to complainants and respondents after a lawsuit has been filed, which will more closely parallel practices of the Agency's federal counterpart, the Equal Employment Opportunity Commission.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

Statement of Rationale:

Regulation 65-3 should be changed to shorten the timeframe for subpoena enforcement in the event a response to the agency's request for information is ignored. Additionally, the regulation should provide Complainants and Respondents with equal access to the Agency's investigative files. Currently, Complainants may not access information provided to the Agency by the Respondent; however, Respondents may access information provided by Complainant if a lawsuit has been filed. In order to be substantially equivalent to federal agency processes, and to provide parties with equal access, the Regulation should be amended to allow the respective parties to collect data provided by either party. Finally, the citation for the Freedom of Information Act is wrong and should be corrected.

Text:

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

Document No. 4678

**SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65**

Statutory Authority: 1976 Code Sections 31-21-30 and 31-21-100

65-223. Investigation Procedures.

Preamble:

Regulation 65-223 explains the procedures for Agency investigations based on complaints of unlawful conduct under the Fair Housing Law.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion

- E.(3) Would exempt Fair Housing investigations from disclosure under the Freedom of Information Act. In responding to a party's request for file information, would allow the Agency to redact or deny access to deliberative memoranda, working papers, drafts and other work products of the Commission relating to a complaint.

Notice of Public Hearing and Opportunity for Public Comment:

A Public Hearing will be held on November 30, 2016, at 10:00 AM in the Board Room of the Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, SC 29201. The South Carolina Human Affairs Commission proposes to amend Regulation 65-223, Investigation Procedures.

Written comments should be submitted in writing to Lee Ann W. Rice, Staff Counsel, 1026 Sumter Street, Suite 101, Columbia, SC 29201. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-223.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 65-223. Investigation Procedures.

Purpose: The regulation governs the procedures for the Agency to investigate complaints of unlawful conduct as defined by the Fair Housing Law. Explains the mechanisms for obtaining relevant information from parties in an Agency investigation. Guides the Agency on disclosure of file contents.

Legal Authority: 1976 Code Sections 31-21-30 and 31-21-100.

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Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

Regulation 65-223 Investigation Procedures, should be updated to protect housing investigation files from being subject to the Freedom of Information Act, as well as to protect deliberative data and other work product by agency staff from being disclosed to either party.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

Statement of Rationale:

Regulation 65-223 should clarify that file information is not available to the public. The regulation should also specify that respective parties to an investigation may not have access to deliberative data and other work product of agency staff, and that such information is protected from disclosure.

Text:

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

Document No. 4679

SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65

Statutory Authority: 1976 Code Sections 31-21-30 and 31-21-100

65-227. Issuance of Complaint.

Preamble:

Regulation 65-227 governs the requirements for issuing a reasonable cause determination and an accompanying administrative pleading in anticipation of an administrative hearing before a panel of the Board of Commissioners.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion

- A.(1)(a)(i). Changes the term ‘complaint’ to ‘reasonable cause determination’ so as to differentiate a reasonable cause determination from a complaint filed by an Aggrieved Party for investigation by the Agency under Regulation 65-220.
- B.(1) Changes the term ‘complaint’ to ‘administrative pleading’ so as to differentiate an administrative hearing from a complaint filed by an Aggrieved Party for investigation by the Agency under Regulation 65-220.
- B.(2) Changes the term ‘complaint’ to ‘reasonable cause determination’ so as to differentiate a reasonable cause determination from a complaint filed by an Aggrieved Party for investigation by the Agency under Regulation 65-220.
- B.(2)(b) Changes the term ‘complaint’ to ‘administrative pleading’ so as to differentiate an administrative hearing from a complaint filed by an Aggrieved Party for investigation by the Agency under Regulation 65-220.
- B.(2)(c) Changes the term ‘complaint’ to ‘administrative pleading’ so as to differentiate an administrative hearing from a complaint filed by an Aggrieved Party for investigation by the Agency under Regulation 65-220.
- C.(1) Changes the term ‘complaint’ to ‘administrative pleading’ so as to differentiate an administrative hearing from a complaint filed by an Aggrieved Party for investigation by the Agency under Regulation 65-220.
- C.(2) Changes the term ‘complaint’ to ‘reasonable cause determination’ so as to differentiate a reasonable cause determination from a complaint filed by an Aggrieved Party for investigation by the Agency under Regulation 65-220.
- C.(3) Changes the term ‘complaint’ to ‘administrative pleading’ so as to differentiate an administrative hearing from a complaint filed by an Aggrieved Party for investigation by the Agency under Regulation 65-220.

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Notice of Public Hearing and Opportunity for Public Comment:

A Public Hearing will be held on November 30, 2016, at 10:00 AM in the Board Room of the Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, SC 29201. The South Carolina Human Affairs Commission proposes to amend Regulation 65-227, Issuance of Complaint.

Written comments should be submitted in writing to Lee Ann W. Rice, Staff Counsel, 1026 Sumter Street, Suite 101, Columbia, SC 29201. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-227.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 65-227. Issuance of Complaint.

Purpose: The regulation explains the actions to be taken by the Agency following a reasonable cause determination in a Fair Housing investigation; however, the current terminology lacks clarity and new terminology should be incorporated.

Legal Authority: 1976 Code Sections 31-21-30 and 31-21-100.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

The regulation is confusing on its face based on the use of the word 'complaint' in referring to several different documents.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

Statement of Rationale:

Regulation 65-227 needs to incorporate different terms when referring to different documents in an investigation that is deemed to be a reasonable cause case.

Text:

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

Document No. 4680
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Sections 31-21-30 and 31-21-100

65-233. Pleadings, Motions and Discoveries.

Preamble:

Regulation 65-233 governs the procedures for administrative hearings before a panel of commissioners following a reasonable cause determination under the Fair Housing Law.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion

Discovery A. Fixes inconsistency in itemized.

Discovery B. Fixes inconsistency in itemized.

Discovery C. Fixes inconsistency in itemized.

Discovery D. Fixes inconsistency in itemized.

Notice of Public Hearing and Opportunity for Public Comment:

A Public Hearing will be held on November 30, 2016, at 10:00 AM in the Board Room of the Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, SC 29201. The South Carolina Human Affairs Commission proposes to amend Regulation 65-233, Pleadings, Motions and Discoveries.

Written comments should be submitted in writing to Lee Ann W. Rice, Staff Counsel, 1026 Sumter Street, Suite 101, Columbia, SC 29201. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-233.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 65-233. Pleadings, Motions and Discoveries.

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Purpose: The regulation governs the procedures for holding administrative hearings before a panel of commissioners following a determination of reasonable cause in a fair housing investigation.

Legal Authority: 1976 Code Sections 31-21-30 and 31-21-100.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

The regulation should be renumbered to avoid citation errors.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

Statement of Rationale:

Regulation 65-233 should be renumbered to avoid citation errors.

Text:

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

Document No. 4681
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Section 1-13-70

65-23. Preservation of Records in Event of Charge of Discrimination.

Preamble:

Regulation 65-23 requires that state agencies retain relevant personnel records during a timely investigation by the Human Affairs Commission under the Human Affairs Law.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion

Entire Regulation would change to reflect that all employer, labor organization, or employment agency shall preserve all personnel or employment records relevant to a pending charge, and failure to retain such records may result in an adverse inference against the party failing to retain the documents.

Notice of Public Hearing and Opportunity for Public Comment:

A Public Hearing will be held on November 30, 2016, at 10:00 AM in the Board Room of the Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, SC 29201. The South Carolina Human Affairs Commission proposes to amend Regulation 65-23, Preservation of Records in Event of Charge of Discrimination.

Written comments should be submitted in writing to Lee Ann W. Rice, Staff Counsel, 1026 Sumter Street, Suite 101, Columbia, SC 29201. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-23.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 65-23. Preservation of Records in Event of Charge of Discrimination

Purpose: The regulation requires that state agencies retain relevant personnel records during an investigation by the Human Affairs Commission under the Human Affairs Law.

Legal Authority: 1976 Code Section 1-13-70.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

194 PROPOSED REGULATIONS

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

The Human Affairs Commission needs to make all employers, labor organizations, and employment agencies, aware of the need to retain records relevant to a charge during the course of an investigation by the Commission. Any failure to retain records, pursuant to 29 CFR Part 1602, may cause the Commission to infer that such records would have been detrimental to the party's position.

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

Statement of Rationale:

Regulation 65-23 should apply to all employers, labor organizations, and employment agencies which are in the process of being investigated by the Human Affairs Commission. The regulation should clarify that charges originating with the Commission's federal counterpart, the Equal Employment Opportunity Commission, have the same requirement. The Human Affairs Commission should have the right to infer that, if an employer, labor organization, or employment agency fails to retain personnel records which are relevant evidence to an investigation, such evidence may have adversely affected the party's position.

Text:

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

Document No. 4682
SOUTH CAROLINA HUMAN AFFAIRS COMMISSION
CHAPTER 65
Statutory Authority: 1976 Code Section 1-13-70

65-9. Procedure for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act.

Preamble:

Regulation 65-9 governs the procedures for filing a lawsuit following an investigation at the Agency.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion

B.(3)(a.) Change would reflect the One Hundred Twenty (120) day statutory deadline to bring a lawsuit found in South Carolina Code Section 1-13-90(d)(6).

Notice of Public Hearing and Opportunity for Public Comment:

A Public Hearing will be held on November 30, 2016, at 10:00 AM in the Board Room of the Human Affairs Commission, 1026 Sumter Street, Suite 101, Columbia, SC 29201. The South Carolina Human Affairs Commission proposes to amend Regulation 65-9, Procedure for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act.

Written comments should be submitted in writing to Lee Ann W. Rice, Staff Counsel, 1026 Sumter Street, Suite 101, Columbia, SC 29201. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The Agency estimates that no additional costs will be incurred by the state in complying with the proposed amendments to 65-9.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 65-9. Procedure for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act.

Purpose: The regulation governs the procedures for filing a lawsuit related to a complaint if either the Agency or a complainant chooses to do so.

Legal Authority: 1976 Code Section 1-13-70.

Plan for Implementation: The proposed amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. This regulation will also be published on the S.C. Legislature website in the S.C. Code of Regulations.

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

As reflected in 1976 Code Sections 1-13-90(d)(6), complainants have up to one hundred and twenty days to file a lawsuit following the Agency's dismissal of the charge.

196 PROPOSED REGULATIONS

DETERMINATION OF COSTS AND BENEFITS:

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.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not amended.

Statement of Rationale:

The Regulation should be changed to reflect the One Hundred Twenty (120) day statutory deadline for filing a lawsuit. This deadline is found in South Carolina Code Section 1-13-90(d)(6).

Text:

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

Document No. 4710

DEPARTMENT OF LABOR, LICENSING AND REGULATION CHAPTER 10

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-7-50, and 40-7-60

10-6. Board of Barber Examiners.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to move the fee for cosmetologists receiving a master hair care license from Regulation 17-51 to Chapter 10.

Section-by-Section Discussion

10-6 (A) No changes.

10-6 (B)(1) - (5) No changes.

10-6 (B)(6) Add fee for cosmetologists receiving a master hair care license.

10-6 (C) - (Q) No changes.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 1:00 p.m. on December 1, 2016. Written comments may be directed to Holly P. Beeson, Counsel to the Office of Communications and Governmental Affairs, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to move the fee for cosmetologists receiving a master hair care license from Regulation 17-51 to Chapter 10 where the remainder of the Board of Barber Examiners' fees are located.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to move the fee for cosmetologists receiving a master hair care license from Regulation 17-51 to Chapter 10 where the remainder of the Board of Barber Examiners' fees are located. There is no change in the fee amount.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-7-50, and 40-7-60.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the Department's website.

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

The proposed regulations will move the fee for cosmetologists receiving a master hair care license from Regulation 17-51 to Chapter 10 where the remainder of the Board of Barber Examiners' fees are located.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

198 PROPOSED REGULATIONS

Statement of Rationale:

The updated regulations will move the fee for cosmetologists receiving a master hair care license from Regulation 17-51 to Chapter 10 where the remainder of the Board of Barber Examiners' fees are located. There is no change in the fee amount.

Text:

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

Document No. 4721

DEPARTMENT OF LABOR, LICENSING AND REGULATION

CHAPTER 10

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 48-27-140 and 48-27-190

10-16. Board of Registration for Foresters.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to move the fees for registration and renewal of foresters from Regulation 53-16 to Chapter 10.

Section-by-Section Discussion

10-16. Board of Registration for Foresters.

(1)-(11) Moving from Regulation 53-16 to Regulation 10-16. No changes to fee amounts.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 2:00 p.m. on December 6, 2016. Written comments may be directed to Holly P. Beeson, Counsel to the Office of Communications and Governmental Affairs, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to move the fees for registration and renewal of foresters from Regulation 53-16 to Chapter 10-16.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to move the fees for registration and renewal of foresters from Regulation 53-16 to Chapter 10-16.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 48-27-140 and 48-27-190.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will move the fees for registration and renewal of foresters from Regulation 53-16 to Chapter 10-16.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will move the fees for registration and renewal of foresters from Regulation 53-16 to Chapter 10-16.

Text:

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

200 PROPOSED REGULATIONS

Document No. 4711

DEPARTMENT OF LABOR, LICENSING AND REGULATION

CHAPTER 10

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-57-60, and 40-57-70

10-37. Real Estate Commission.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes correct a scrivener's error in Regulation 10-37(E)(6). Specifically, the word "approval" should be changed to "renewal."

Section-by-Section Discussion

10-37(A) No change.

10-37(B) No change.

10-37(C) No change.

10-37(D) No change.

10-37(E)(1-5) No change.

10-37(E)(6) Change "approval" to "renewal."

10-37(E)(7) No change.

10-37(F) No change.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 3:00 p.m. on December 6, 2016. Written comments may be directed to Roderick Atkinson, Administrator, Real Estate Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to correct a scrivener's error.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to correct a scrivener's error.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-57-60, and 40-57-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will correct a scrivener's error.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will correct a scrivener's error.

Text:

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

Document No. 4712
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF AMUSEMENT RIDES
CHAPTER 71

Statutory Authority: 1976 Code Section 41-18-120

71-4000. Purpose and Definitions.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation, Office of Amusement Rides proposes to supplement the definitions contained in its regulations. This proposed regulation will clarify when an amusement device is "open to the public" and, therefore, required to be inspected and permitted by the Department.

Section-by-Section Discussion

71-4000(1) No change.

71-4000(2)(A)-(E) No change.

71-4000(2)(F) Add definition of "Open to the Public."

202 PROPOSED REGULATIONS

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 1, 2016. Written comments may be directed to Duane Scott, Sr., Office of Amusement Rides, S.C. Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended clarify when an amusement device is “open to the public” and, therefore, required to be inspected and permitted by the Department.

DESCRIPTION OF REGULATION:

Purpose: The Director is amending the regulations to clarify when an amusement device is “open to the public” and, therefore, required to be inspected and permitted by the Department.

Legal Authority: 1976 Code Section 41-18-120.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify permittees of the revised regulation and post the revised regulations on the Department’s website.

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

The proposed regulations will provide the public with clarity on whether or not an amusement device is “open to the public” and, therefore, required to be inspected and permitted by the Department.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will provide the public with clarity on whether or not an amusement device is “open to the public” and, therefore, required to be inspected and permitted by the Department.

Text:

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

Document No. 4713

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF BARBER EXAMINERS**

CHAPTER 17

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-7-50, and 40-7-60

17-20. Barbershop Requirements; Applications for Inspection and Registration and Shop License.

Preamble:

The Board of Barber Examiners proposes to remove the fee for barbershop inspection and registration from Regulation 17-20.

Section-by-Section Discussion

17-20 Remove \$50.00 inspection and registration fee.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 1:00 p.m. on December 5, 2016. Written comments may be directed to Theresa Richardson, Administrator, Board of Barber Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to remove the fee for barbershop inspection and registration from Regulation 17-20.

204 PROPOSED REGULATIONS

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to remove the fee for barbershop inspection and registration from Regulation 17-20. This fee is no longer charged by the Board.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-7-50, and 40-7-60.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will remove the fee for barbershop inspection and registration from Regulation 17-20.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will remove the fee for barbershop inspection and registration from Regulation 17-20 because it is no longer charged by the Board.

Text:

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

Document No. 4714
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70

8-604. Adoption of Model Codes.

Preamble:

The South Carolina Building Codes Council proposes to correct a scrivener's error in Regulation 8-604(3).

Section-by-Section Discussion

8-604(1)-(2) No changes.

8-604(3) Change "administration" to "Administrator."

8-604(4)-(5) No changes.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 7, 2016. Written comments may be directed to Roger Lowe, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to correct a scrivener's error in Regulation 8-604(3).

DESCRIPTION OF REGULATION:

Purpose: The Council is amending its regulations to correct a scrivener's error in Regulation 8-604(3).

Legal Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will correct a scrivener's error in Regulation 8-604(3).

206 PROPOSED REGULATIONS

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will correct a scrivener's error in Regulation 8-604(3).

Text:

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

Document No. 4715

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70

8-255. Energy Standards Appeal Procedure.

Preamble:

The South Carolina Building Codes Council proposes to correct a scrivener's error in Regulation 8-255(D).

Section-by-Section Discussion

8-255(A)-(C) No changes.

8-255(D) Change "supersedes" to "suspension."

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 7, 2016. Written comments may be directed to Roger Lowe, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later

than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to correct a scrivener's error in Regulation 8-255(D).

DESCRIPTION OF REGULATION:

Purpose: The Council is amending its regulations to correct a scrivener's error in Regulation 8-255(D).

Legal Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will correct a scrivener's error in Regulation 8-255(D).

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will correct a scrivener's error in Regulation 8-255(D).

Text:

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

208 PROPOSED REGULATIONS

Document No. 4716

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8**

Statutory Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70

8-1218. IRC Section R502.11.4 Truss design.

Preamble:

The South Carolina Building Codes Council proposes to correct a scrivener's error in Regulation 8-1218.

Section-by-Section Discussion

8-1218 Add section 1-5 as noted in first paragraph.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 7, 2016. Written comments may be directed to Roger Lowe, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to correct a scrivener's error in Regulation 8-1218.

DESCRIPTION OF REGULATION:

Purpose: The Council is amending its regulations to correct a scrivener's error in Regulation 8-1218.

Legal Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will correct a scrivener's error in Regulation 8-1218.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will correct a scrivener's error in Regulation 8-1218.

Text:

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

Document No. 4717
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70

8-1221. IRC Section R703.4 Flashing.

Preamble:

The South Carolina Building Codes Council proposes to correct a scrivener's error in Regulation 8-1221.

Section-by-Section Discussion

8-1221 R703.4 to R703.4.1 No changes.
8-1221 R703.4.2 Change "restive" to "resistive."
8-1221 R703.4.3 to R703.4.3.1 No changes.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 7, 2016. Written comments may be directed to Roger Lowe, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

210 PROPOSED REGULATIONS

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to correct a scrivener's error in Regulation 8-1221.

DESCRIPTION OF REGULATION:

Purpose: The Council is amending its regulations to correct a scrivener's error in Regulation 8-1221.

Legal Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will correct a scrivener's error in Regulation 8-1221.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will correct a scrivener's error in Regulation 8-1221.

Text:

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

Document No. 4718
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8

Statutory Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70

8-1222. IRC Section R802.10.1 Wood Truss Design.

Preamble:

The South Carolina Building Codes Council proposes to correct a scrivener's error in Regulation 8-1222 which was amended in the 2016 Legislative Session.

Section-by-Section Discussion

8-1222. IRC Section R802.10.1 Wood Truss Design.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 7, 2016. Written comments may be directed to Roger Lowe, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to correct a scrivener's error in Regulation 8-1222.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to correct a scrivener's error in Regulation 8-1222.

Legal Authority: 1976 Code Sections 6-8-20, 6-9-40, 6-9-63(E), and 40-1-70.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will correct a scrivener's error in Regulation 8-1222.

212 PROPOSED REGULATIONS

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will correct a scrivener's error in Regulation 8-1222.

Text:

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

Document No. 4719
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Section 6-9-40

8-120. Maximum Time for Certification.

Preamble:

The South Carolina Building Codes Council proposes to amend Regulation 8-120 regarding provisional classification certification.

Section-by-Section Discussion

8-120. Maximum Time for Certification.

First paragraph numbered and changed "must" to "shall."

(A) Renumbered and amended to provide time limits by number of classifications.

(B)-(E) Renumbered

(B) Adding new section regarding failure to complete certifications within the time limits.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 2:00 p.m. on November 29, 2016. Written comments may be directed to Roger K. Lowe, Administrator, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to provide time limits for provisional licenses for building officials.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations regarding the maximum time for certification.

Legal Authority: 1976 Code Section 6-9-40.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will provide time limits for provisional licenses for building officials.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will provide time limits for provisional licenses for building officials.

214 PROPOSED REGULATIONS

Text:

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

Document No. 4720
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF COSMETOLOGY
CHAPTER 35

Statutory Authority: 1976 Code Sections 40-1-70 and 40-13-80

35-20. Sanitary and Safety Rules for Salons and Schools.

Preamble:

The South Carolina State Board of Cosmetology proposes to amend its regulations regarding sanitary and safety rules.

Section-by-Section Discussion

35-20. Sanitary and Safety Rules for Salons and Schools.

- (A)(1) No changes.
- (A)(2) Amended to further define the practice of cosmetology to include the related professions of nail technology, esthetics, and instructor training.
- (A)(3) No changes.
- (A)(4) Amended to include related professions.
- (A)(5) No changes.
- (B)(1) Amended to include related professions and clarify requirements for salon and school building.
- (B)(2) No changes.
- (B)(3) Amended to include require compliance with current federal/state workplace safety laws.
- (B)(4) No changes.
- (C) No changes.
- (D)(1)-(2) No changes.
- (D)(3) Amended to require disposable towels.
- (D)(4) No changes.
- (E) No changes.
- (F)(1) Amended to clarify parasite and infectious disease prohibition and add related professions.
- (F)(2) Amended to include related professions.
- (F)(3) No changes.
- (G)(1) Delete.
- (G)(2) Amended to include related professions and update terminology.
- (H)(1) Number removed. Amended to update terminology and add materials.
- (I)(1) Amended to update terminology, include related professions, clarify disinfecting requirements and remove unnecessary language.
- (I)(2) Amended to update terminology and further define storage of disinfected implements.
- (I)(3) Amended to include reference to Section 35-20(I)(1) and clarify storage of disinfectants.
- (I)(4) Amended to update terminology and specify storage containers for soiled items or items waiting to be disinfected.
- (J)(1) Amended to update terminology.
- (J)(2) Amended to update terminology and specify storage disinfected implements.
- (J)(3) Added to provide guidance on disinfecting towel warmers.
- (J)(4) Added to provide guidance on disinfecting pedicure bowls, tubs or basins.

- (K)(1) Reworded.
- (K)(2) Amended to require single use spatulas and add requirements for cosmetic pencils.
- (K)(3) Added to require single use of paraffin.
- (K)(4) Added to provide guidance on sanitary use of wax pots.
- (L)(1) Amended to require disposable towels.
- (L)(2) Amended to require shampoo trays and bowls be disinfected.
- (L)(3) Amended to require disposable towels and disinfected of treatment tables.
- (M)(1) Amended to require disposable towels be discarded and specify containers for soiled linens.
- (M)(2) Amended to explain laundering procedures.
- (M)(3) Amended to specify storage containers for clean towels.
- (N) Amended to update terminology.
- (O)(1) Amended to clarify requirement for neck strips and capes.
- (P) Added to provide for the substances, products or tools that are prohibited in performing cosmetology and related services.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 1:00 p.m. on December 20, 2016. Written comments may be directed to Theresa Richardson, Administrator, Board of Cosmetology, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to clarify processes ensuring safe sanitation practices.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to clarify processes ensuring safe sanitation practices.

Legal Authority: 1976 Code Sections 40-1-70 and 40-13-80.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will clarify processes ensuring safe sanitation practices.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

216 PROPOSED REGULATIONS

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will clarify processes ensuring safe sanitation practices.

Text:

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

Document No. 4722

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS
CHAPTER 93**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-35-60

93-80. Administrator-in-Training Program Requirements.

Preamble:

The South Carolina Board of Long Term Health Care Administrators proposes to amend its regulations to update the Administrator-in-Training requirements.

Section-by-Section Discussion

93-80. Administrator-in-Training Program Requirements

(A)(1) Amend to include higher degrees to meet educational requirements.

(A)(1)(a) Amend to include higher degrees and editorial change.

(A)(1)(b) Change "health care related degree" to "health care administration."

(A)(2)(a) Change "health related Associate or higher degree" to baccalaureate degree or higher."

(A)(2)(b) Change "non-health related Associate or high degree" to health related Associate degree."

(A)(2)(c) Add internship time for nonhealth-related associate degrees and licensed practical nurses.

(B)-(C) No changes.

(D)(1)-(2) No changes.

(D)(3)(a) Change "administrator of record" to "administrator employed by" and delete information on third party funding.

(D)(3)(b) Change "administrator of record" to "administrator employed by" and delete information on third party funding.

(E) No changes.

- (F) Remove requirement to train at one site.
- (G)-(L) No changes.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 5, 2016. Written comments may be directed to April D. Koon, Administrator, Board of Long Term Health Care Administrators, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to conform to the changes made to the education and experience requirements in statute in 2014 and in regulation in 2016.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to comport with the changes made for nursing home and community residential care facility administrators' education and experience requirements in 2014 in statute and in 2016 in regulation.

Legal Authority: 1976 Code Sections 40-1-70 and 40-35-60.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the *State Register*. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will ensure that Administrators-in-Training have the same education and experience requirements as administrators.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

218 PROPOSED REGULATIONS

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

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

Statement of Rationale:

The updated regulations will conform to changes made to the Long Term Health Care Administrators' practice act in 2014 and in regulation in 2016.

Text:

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

Document No. 4723

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF EXAMINERS IN OPTICIANRY

CHAPTER 96

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-38-60, and 40-38-250

96-105. Examinations.

96-106. Apprenticeship Registration and Program Provisions.

96-107. Reinstatement of Lapsed License or Lapsed Apprenticeship.

Preamble:

The South Carolina Board of Examiners in Opticianry proposes to amend its regulations to clarify the waiting period after unsuccessful examination attempts; to clarify that apprenticeship is a training period and not a subclass of practice; and to adjust continuing education requirements to comport with biennial licensure.

Section-by-Section Discussion

96-105. Examinations.

(A)(1) no changes.

(A)(2) changes to clarify waiting period after unsuccessful examination attempt.

96-106. Apprenticeship Registration and Program Provisions.

(A)(1) no changes.

(A)(2)-(3) changes to clarify apprenticeship requirements.

(B)-(E) no changes.

(F) New language added to provide for extension of apprenticeships and requirements.

(G) renumbered.

96-107. Reinstatement of Lapsed License or Lapsed Apprenticeship.

(A)-(B) no changes.

(C) deleted language restricting apprenticeship reinstatement.

A Notice of Drafting was published in the *State Register* on September 23, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on December 8, 2016. Written comments may be directed to April D. Koon, Administrator, State Board of Examiners in Opticianry, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to clarify the waiting period after unsuccessful examination attempts; to clarify that apprenticeship is a training period and not a subclass of practice; and to adjust continuing education requirements to comport with biennial licensure.

DESCRIPTION OF REGULATION:

Purpose: The board is amending its regulations to clarify the waiting period after unsuccessful examination attempts; to clarify that apprenticeship is a training period and not a subclass of practice; and to adjust continuing education requirements to comport with biennial licensure.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-38-60, and 40-38-250.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will clarify the waiting period after unsuccessful examination attempts; to clarify that apprenticeship is a training period and not a subclass of practice; and to adjust continuing education requirements to comport with biennial licensure.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

220 PROPOSED REGULATIONS

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

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

Statement of Rationale:

The updated regulations will clarify the waiting period after unsuccessful examination attempts; to clarify that apprenticeship is a training period and not a subclass of practice; and to adjust continuing education requirements to comport with biennial licensure.

Text:

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

Document No. 4724
DEPARTMENT OF LABOR, LICENSING AND REGULATION
REAL ESTATE COMMISSION
CHAPTER 105
Statutory Authority: 1976 Code Sections 40-1-70 and 40-57-60

- 105-2. Vacation Time Sharing Ownership Plans Defined
- 105-3. Sale of Vacation Time Sharing Plan Receivables
- 105-4. Providers of Courses
- 105-5. Application for Approval
- 105-6. Course Curriculum and Attendance
- 105-7. Enrollment Agreement, Policies, and Procedures
- 105-8. Other Operating Procedures
- 105-9. Auditing and Record Keeping
- 105-10. Instructors
- 105-11. Renewals
- 105-12. Provider, Course, and Instructor Fees
- 105-13. Fees

Preamble:

The Real Estate Commission proposes to amend its regulations to comport with 2016 Act No. 170.

Section-by-Section Discussion:

105-2. Vacation Time Sharing Ownership Plans Defined.
No change.

105-3. Sale of Vacation Time Sharing Plan Receivables.
No change.

105-4. Providers of Courses.
No change.

105-5. Application for Approval.

Removes deadline for applying for provider and course approval. Remove 105-5(B). Renumber 105-5(C) to 105-5(D) accordingly.

105-6. Course Curriculum and Attendance.

- A.(1) No change.
- A.(2) Changes “post licensing” to “the Unit II.”
- A.(3)-(4) No changes.
- B. Changes two classroom hours to four classroom hours on state and federal real estate law.
- C. Specifies the pre-licensing courses in units and provides minimum score to pass final examination.
- D. No change.
- E. Specifies the pre-licensing courses in units and changes “material” to “exam items.”
- F. Provides that no partial credit hours are permitted.
- G. No change.
- H. Provides for Course Completion Report to be submitted to the Commission.
- I. Edit to provide “course” title and removes social security number from Certificate of Completion.

105.7. Enrollment Agreement, Policies, and Procedures.

- A. No change.
- B. New section adds requirement for licensee to affirm he/she understands the terms of enrollment prior to paying for the class.
- B. Renumbered.
- B.(1) Removes social security number and adds name, address and real estate license number.
- B.(2)-(4) No change.
- B.(5) Editorial change removing “the.”
- B.(6) No change.
- B.(7) Adds “if applicable.”
- B.(8) No change.
- B.(9) Editorial changes removing “statement of admission policies” to “Admission policy.”

105-8. Other Operating Procedures.

- A.(1) Adds approved virtual classroom.
- A.(2) No change.
- B.(1)-(2) No change.
- B.(3) Removes chalkboard and clarifies audio-visual equipment.
- C.(1) Adds emails and social media posts.
- C.(2) No change.
- C.(3) New language to prohibit recruitment, sale of promotional materials or solicitation during an instruction period.
- C.(3) Renumber and add that course approval number be included in advertisements with specific course titles.
- C.(4) Renumber.
- C.(5) Renumber.
- C.(6) Renumber and amend language for clarity.
- C.(7) Renumber.
- D. Editorial changes and remove requirement for proposed changes in instructors, operating policies and procedures to be submitted to the Commission.
- E. Delete.

105-9. Auditing and Record Keeping.

No change.

222 PROPOSED REGULATIONS

105-10. Instructors.

- A. Add “qualifying” to courses and add requirement for broker qualified instructors.
- B.-B.(1) No change.
- B.(1)(a) Remove salesman reference and years of experience.
- B.(1)(b) Delete.
- B.(1)(c)-(d) Renumber.
- B.(2)(a)-(d) No change.
- B.(2)(3) Add “and knowledge of South Carolina real estate law” and delete “the area of.”
- B.(3) No change.
- C. Add “Unit II” and delete “specific pre-licensing or.
- D. Amended to require the course provider to notify the Commission of course offerings and include the instructor’s name on the provider’s completion report.
- E) Delete.
- F) Renumber.
- G) Renumber and require the instructor to make the Certificate of Approval available, when requested.
- H) Renumber and allow continuing education exemption for time spent teaching by instructors.

105-11. Renewals.

No change.

105-12. Provider, Course, and Instructor Fees.

No change.

105-13. Fees.

No change.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 1:00 p.m. on November 30, 2016. Written comments may be directed to Roderick Atkinson, Administrator, Real Estate Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1289, no later than 5:00 p.m., November 28, 2016. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

These regulations are amended to comport with 2016 Act No. 170.

DESCRIPTION OF REGULATION:

Purpose: The commission is amending its regulations to comport with 2016 Act No. 170.

Legal Authority: Sections 40-1-70 and 40-57-60.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulations on the agency's website.

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

The proposed regulations will comport with 2016 Act No. 170.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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

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

Statement of Rationale:

The updated regulations will comport with 2016 Act No. 170.

Text:

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

Document No. 4686

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-11-2200, 50-11-2210 and 50-11-2215

123-203. General Regulations.

123-204. Additional Regulations Applicable to Specific Properties.

Preamble:

The South Carolina Department of Natural Resources is proposing to create a new regulation that governs the conduct and activities of visitors to Wildlife Management Areas, Heritage Preserves, public shooting ranges and other lands owned or leased by the Department of Natural Resources. The following is a summary of the proposed changes and additions:

123-203. General Regulations.

224 PROPOSED REGULATIONS

P. Provides that the Department may close all or parts of properties to protect human health and safety or for special events.

123-204. Additional Regulations Applicable to Specific Properties.

N. Extends the regulations to leased lands on the project. This was done at the request of the landowner.

Adds Palmetto Trail to the special hiking trail regulations.

T. St. Helena Sound Heritage Preserve (Otter Island) – Adjusts camping dates to protect bird nesting.

U. Samworth WMA – Prescribes hours of use for the mainland nature trail.

V. Santee Coastal Reserve – Allows additional public use on the uplands. Clarifies trail usage and camping use and re-numbers some items.

AA. Eliminates camping and renumbers remaining item.

JJ. Eliminates the daily use card requirement on 3 areas and establishes it on 4 more heavily used areas.

KK. Liberty Hill WMA – Prohibits the use of ATVs on the new tract.

LL. Establishes use regulations for the new tract.

MM. Lewis Ocean Bay HP WMA – expands the time period for horseback riding on the tract.

123-211 - Creates a new regulation to govern the use of shooting ranges on properties owned, managed or leased by the department.

A Notice of Drafting was published in the *State Register* on July 22, 2016, Volume 40, Issue No. 7.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on December 6, 2016 at 10:00 am in Room 335, Third Floor, Rembert C. Dennis Building. Written comments may be directed to Emily Cope, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202, no later than November 28, 2016.

Preliminary Fiscal Impact Statement:

The modifications to Regulation 123-204 and the creation of Regulation 123-211 will not have significant fiscal impact since the uses are already occurring on DNR properties. These regulations will reduce damage to and conflicts on the areas and should reduce financial inputs from the department and have no negative change to fiscal impacts on the users. There will be minor economic impact to users of public shooting ranges in the form of a user fee for a voluntary activity.

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Sections 1-23-115(C) (1) through (3) and (9) through (11). Since existing regulations only apply to specific Wildlife Management Areas and Heritage Preserves, new regulations must be filed to establish public use guidelines on new properties as well as defining and expanding use opportunities on existing properties.

DESCRIPTION OF REGULATION:

Purpose: These regulations amend Chapter 123 by modifying regulations 123-203 and 123-204 and adding regulation 123-211 in order to protect and preserve natural resources while providing maximum public benefit and to establish clear shooting range use guidelines for shooting ranges on WMA and other lands owned and managed by the Department.

Legal Authority: Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all special use restrictions related to use of Department-owned and leased

land. Under Section 50-11-96 of the S.C. Code of Laws, the Department of Natural Resources is authorized to promulgate regulations to implement and regulate the provisions of this section.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations in all DNR land use documents and the Managed Lands section of the DNR web site. The public will be notified through web and through news releases and other Department media outlets and publications. Where appropriate, use regulations will be incorporated in site-specific brochures and posted at the entrances to specific properties.

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

These regulations regulate use of properties and shooting ranges on lands owned and leased by DNR for purposes described herein.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. These areas and ranges currently exist and are being currently managed for this purpose. There is no impact on Wildlife Management Areas or hunting seasons.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health. New regulations are designed to safeguard public safety.

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

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

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in establishing public hunting and recreational use areas. New areas are evaluated based on location, size, natural resource values, sensitive elements, access and recreation use potential. Safety of users and staff dictate the need for new regulations on shooting ranges.

Text:

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

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Document No. 4687

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-96, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

123-40. Wildlife Management Area Regulations.

123-51. Turkey Hunting Rules and Seasons.

Preamble:

The South Carolina Department of Natural Resources is proposing to amend the existing regulations that set seasons, bag limits and methods of hunting and taking of wildlife. The following is a section-by-section summary of the proposed changes and additions:

123-40. Wildlife Management Area Regulations.

B. Game Zone 2

12. Delta South WMA - Provides additional opportunity for archery deer hunting, firearms deer hunting and small game hunting.

13. Forty Acre Rock Heritage Preserve WMA - Establishes Forty Acre Rock HP WMA as a named WMA, establishes deer and small game seasons on the WMA.

C. Game Zone 3

13. Bonneau Ferry WMA – provides additional public access on Bonneau Ferry WMA and provides for either-sex deer harvest on Adult/Youth Side of Bonneau Ferry WMA.

26. Wateree River HP WMA – Wateree River HP WMA as a named WMA, establishes deer and small game seasons on the WMA.

2.8 Deletes the licensing requirement for adults accompanying youth hunters on WMA lands.

7.1 Provides archery hunters during archery only deer seasons an exemption to the requirement to wear interntional orange clothing.

10.7 Provides additional public access on Sandy Beach Waterfowl Area and Bonneau Ferry WMA.

123-51. Turkey Hunting Rules and Regulations.

B. Game Zone 2

8. Liberty Hill WMA – Establishes turkey season for the new Liberty Hill WMA.

9. Delta South WMA – Establishes turkey season for the new Delta South WMA.

10. Forty Acre Rock HP WMA – Establishes turkey season for the new Forty Acre Rock HP WMA.

C. Game Zone 3

1.(b) Establishes turkey bag limit consistent with statewide bag limit for turkeys.

A Notice of Drafting for this regulation was published on July 22, 2016 in the *South Carolina State Register*, Volume 40, Issue No. 7.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on December 6, 2016 at 10:00 am in Room 335, Third Floor, Rembert C. Dennis Building. Written comments may be directed to Emily Cope, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202, no later than November 28, 2016.

Preliminary Fiscal Impact Statement:

The amendment of Regulations 123-40 and 123-51 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, local economies should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: These regulations amend Chapter 123-40 and 123-51 in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas.

Legal Authority: Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all Wildlife Management Areas to protect, preserve, operate, maintain and regulate use, as well as to establish open and closed seasons, bag limits, and methods of taking wildlife. Under Section 50-11-525, the Department of Natural Resources is authorized to establish seasons, dates, areas, bag limits, and other restrictions for hunting turkeys on all Wildlife Management Areas.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations in the annual Rules and Regulations Brochure. The public will be notified through this publication and through news releases and other Department media outlets and publications.

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

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Likewise, statutory changes occasionally require changes in regulations to ensure conformity and consistency between statutes and regulations.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. There are no significant new costs imposed by the addition of new WMAs since the funding of leasing WMAs is provided through the existing WMA permit program. Clarification of existing regulations under appropriate authority will improve enforcement ability and therefore reduce staff time in handling prosecution of offenses. This amendment of these regulations will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

UNCERTAINTIES OF ESTIMATES:

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

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

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

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 70 years of experience by SCDNR in managing wildlife populations and establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provide guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

Text:

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

Document No. 4702

DEPARTMENT OF REVENUE

CHAPTER 117

Statutory Authority: 1976 Code Sections 12-4-320 and 12-21-735

Preamble:

The South Carolina Department of Revenue is considering adding SC Regulation 117-1600 to implement the imposition of the cigarette tax via tax stamps as set out in Act No. 145 of 2016.

This regulation would contain provisions concerning reporting requirements under Chapters 47 and 48 of Title 11 along with provisions regarding affixing tax stamps, purchasing tax stamps, features of tax stamps, exemptions and refunds, display, storage, transfer, and transport of cigarettes. Tax stamps will be required as of January 1, 2019 in accordance with Act No. 145 of 2016.

Section-by-Section Discussion

117-1600. Cigarette Taxes.

References the cigarette excise tax imposition and reporting requirements.

117-1600.1. Reporting Requirements.

Establishes distributor monthly reporting requirements for cigarettes, cigarette stamps, and non-participating manufacturer cigarettes.

117-1600.2. Stamps Required on Cigarettes.

Addresses stamping requirements, stamp ordering, stamp credit purchases, exempt stamps, and stamp characteristics.

117-1600.3. Exemptions and Refunds.

Contains a list of available refunds with respect to cigarette stamp taxes.

117-1600.4. Cigarettes Displayed in Vending Machines.

Contains provisions regarding proper display of cigarette tax stamps in vending machines, access to the machines, and inspection of the machines by authorized representatives of the Department of Revenue.

117-1600.5. Stamping and Storage of Cigarettes in South Carolina by a Distributor.

Stamping and storage methods are discussed for South Carolina tax paid cigarettes, cigarettes to be sold in another state, and cigarettes to be sold tax-exempt in South Carolina. This section addresses the stamp-to-order method and the advanced stamping method, which are two prominent stamping and storage methods, but also allows for other methods. All methods must be approved by the Department.

117-1600.6. Samples.

Establishes stamping and invoice requirements for promotional cigarettes shipped into South Carolina by manufacturers to representatives licensed in accordance with Code Section 12-21-660.

The Notice of Drafting was published in the *State Register* on August 26, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

All comments concerning this proposal should be mailed to the following address by 5:00 p.m. on Monday, November 28, 2016: S.C. Department of Revenue, Legislative Services - Mr. Meredith Cleland, P.O. Box 125, Columbia, South Carolina 29214.

The S.C. Department of Revenue has scheduled a public hearing before the Administrative Law Court in the Edgar Brown Building (Suite 224) on the Capitol Complex (1205 Pendleton Street) in Columbia, South Carolina for Wednesday, December 21, 2016 at 10:00 a.m. if the requests for a hearing meet the requirements of Code Section 1-23-110(A)(3). The public hearing, if held, will address a proposal by the Department to add SC Regulation 117-1600 to implement the imposition of the cigarette tax via tax stamps as set out in Act No. 145 of 2016. The Department will be asking the Administrative Law Court, in accordance with S.C. Code Ann. Section 1-23-111 (2005), to issue a report that the proposal to add the regulation is needed and reasonable.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: For 117-1600: **Cigarette Taxes.**

Tax stamps on cigarette packages will be required as of January 1, 2019 in accordance with Act No. 145 of 2016. This regulation contains provisions concerning reporting requirements under Chapters 47 and 48 of Title

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11 along with provisions regarding affixing tax stamps, purchasing tax stamps, features of tax stamps, exemptions and refunds, display, storage, transfer, and transport of cigarettes.

Purpose: To add SC Regulation 117-1600 to implement the imposition of the cigarette tax via tax stamps as set out in Act No. 145 of 2016.

Legal Authority: Code Sections 12-4-320 and 12-21-735.

Plan for Implementation: After approval by the General Assembly and publication in the State Register, the regulation would be effective upon publication in the State Register with respect to the taxation of cigarettes beginning January 1, 2019.

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

The proposal to add SC Regulation 117-1600 is needed to implement the imposition of the cigarette tax via tax stamps as set out in Act No. 145 of 2016.

DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not have an impact on state or local political subdivisions expenditures. Promulgation of this regulation will benefit the State and taxpayers by ensuring that the public has clarity concerning cigarette tax procedures in advance of implementation of the cigarette tax imposition via tax stamps on January 1, 2019.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The purpose of adding SC Regulation 117-1600 is to implement the imposition of the cigarette tax via tax stamps as set out in Act No. 145 of 2016.

Text:

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

Document No. 4688
DEPARTMENT OF SOCIAL SERVICES
 CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 63-3-180 et seq.

114-500 through 114-509. Regulations for the Licensing of Child Care Centers.

Preamble:

Child care standards provide the foundation for ensuring safety and quality for children away from their homes. Quality care ensures the nurturing and protection that children need and helps to create an environment in which children can grow, learn and thrive. The South Carolina Department of Social Services administers regulations for child care facilities. The Department, with the advice and consent of the 17-member State Advisory Committee on the Regulation of Child Care Facilities, is charged with conducting a comprehensive review of these regulations at least once every three years. New regulations replace the current regulations in their entirety once passed through the legislative process. These regulations represent a collaborative effort toward improving the quality of care children receive. It demonstrates the value South Carolina citizens place on all children and our willingness to work and compromise to improve life for our state’s greatest resource – our children.

Notice of Drafting was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion of Proposed Amendments:

1. 114-500(B)(3)(h) – language added regarding children with disabilities
2. 114-500(C)(1) – regulation added regarding children with disabilities
3. 114-500(C)(2) – regulation added regarding children with disabilities
4. 114-500(C)(3) – regulation added regarding children with disabilities
5. 114-500(C)(4) – regulation added regarding children with disabilities
6. 114-501(A)(10) – regulation added regarding the definition of a child with a disability
7. 114-501(A)(11) – regulation added regarding the definition of a child with special needs
8. 114-501(A)(15) – regulation added regarding the definition of an emergency person
9. 114-501(A)(19) – regulation added regarding the definition of night care
10. 114-501(A)(35) – regulation added regarding the definition of a substitute teacher
11. 114-501(A)(39) – regulation added regarding the definition of tracking
12. 114-503(G)(7) – regulations added regarding child records
13. 114-503(J)(4) – regulation added regarding communication required by child care centers
14. 114-503(K)(1)(b) – regulations amended regarding child abuse checks
15. 114-503(K)(3)(c)(v) – regulation amended regarding center directors and/or center co-directors
16. 114-503(K)(4) – regulations amended regarding caregivers’/teachers’ qualifications
17. 114-503(K)(5) – regulations amended regarding professional development
18. 114-504(A)(1) – regulation amended regarding supervision
19. 114-504(B) – regulations amended regarding ratios
20. 114-504(C)(1) – regulation amended regarding nap time ratios
21. 114-505(A)(3) – regulation amended regarding child health
22. 114-505(B)(5) – regulation removed regarding sanitation
23. 114-505(F)(17) – regulation amended regarding diapering
24. 114-505(G)(1) – regulations amended regarding staff health
25. 114-506(B) – regulations amended or removed regarding discipline and behavior management
26. 114-507(A)(6) – regulations amended regarding water supply
27. 114-507(A)(7) – regulations amended regarding temperature
28. 114-507(A)(12)(d) – regulation amended regarding bathrooms
29. 114-507(B) – regulations added or amended regarding outdoor equipment
30. 114-507(C) – regulations amended or removed regarding furniture, toys and recreational equipment

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31. 114-507(D)(2) – regulation amended regarding rest equipment
32. 114-507(E)(4) – regulations amended regarding animals
33. 114-508(B)(6) – regulation amended regarding food preparation
34. 114-509(A)(3)(d) – regulation amended regarding feeding, eating and drinking
35. 114-509(A)(5) – regulations amended regarding sleeping

Notice of Public Hearing and Opportunity for Public Comment:

Address for written comments to be sent: Ms. Cynthia Lara, Department of Social Services, Division of Early Care & Education, Director of Child Care Licensing, 1535 Confederate Avenue, Ste. 311-1, Columbia, SC 29202, no later than November 28, 2016.

A public hearing has been requested. The public hearing will be held upon the receipt of a request for the public hearing by 1) 25 or more people; 2) a governmental subdivision or agency; or 3) by an association with 25 or more members pursuant to S.C. Code Section 1-23-110(A)(3). The date, time and place of public hearing is: Monday, December 19, 2016 at 10:00 a.m. at the offices of the Administrative Law Court, Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, SC.

Preliminary Fiscal Impact Statement:

The proposed regulations will have no substantial fiscal or economic impact on the State or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or State Government due to any inherent requirements of this regulation.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 114-500 through 114-509. Regulations for the Licensing of Child Care Centers.

Purpose: To provide the foundation for healthy, safe and quality child care in public and private child care centers in South Carolina.

Legal Authority: 1976 Code Sections 43-1-80 and 63-3-180, et seq.

Plan for Implementation: The amendments will take effect upon the approval of the South Carolina General Assembly and publication as final regulations in the *State Register*. A copy of the regulations will be made available electronically on the Department's website at www.scchildcare.org. The Department will also send an email to stakeholders and the regulated community and will communicate with the affected child care centers before and after the implementation period regarding the amended regulations.

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

These amendments are based on the advice and recommendation of the State Advisory Committee on the Regulation of Child Care Facilities. They are reasonable and necessary to improve the health, safety and quality of child care in South Carolina. They serve to further protect the interests of children and parents while accounting for the needs of owners and operators of child care facilities. The amendments clarify and/or strengthen existing regulations that enable Department staff to enforce health and safety standards for public and private child care centers in South Carolina.

DETERMINATION OF COSTS AND BENEFITS:

There is not anticipated increase in costs to the State or its political subdivisions resulting from these proposed revisions. The standards to be adopted are significantly similar to those already in effect and applicable to the regulated community as a matter of state law, thus the regulated community has already incurred the costs of these regulations. The proposed amendments will benefit the regulated community and the children they serve by improving the health, safety and quality of public and private child care centers.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The Department anticipates no environmental effect. Public health will be positively affected by the strengthening of regulations regarding the inclusion of children with special needs, the encouragement that child care teachers consult with doctors regarding a TDAP vaccine, requiring additional continuing education for child care teachers, restricting the use of play pens in child care centers, enforcing safe sleep practices and banning child care staff from smoking on the child care premises.

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

There is no anticipated detrimental effect on the environment. Public health may be detrimentally affected if the regulation amendments are not implemented by failing to adopt current best practices for health and safety of children in child care facilities because current health and safety practices were implemented in 2005.

Statement of Rationale:

These amendments are proposed to enhance and improve the current licensing regulations for private and public child care centers based on the advice and recommendation of the State Advisory Committee on the Regulation of Child Care Facilities. The Committee consulted experts in the field of child care licensing, inclusion of children with special needs, and national best practice standards adopted by other states.

Text:

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

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Document No. 4685
DEPARTMENT OF TRANSPORTATION
CHAPTER 63
Statutory Authority: 1976 Code Section 57-3-110(8)

63-30. Commission Approval of Actions.

Preamble:

Former Section 57-1-370(N) of the Code of Laws, 1976, as amended, required the South Carolina Department of Transportation (SCDOT) Commission to approve requests for resurfacing, installation of new signals, curb cuts on primary roads, bike lanes, and construction projects under ten million dollars. It also required the Commission to certify that the request was needed based on objective and quantifiable factors. Section 57-1-370(N) was repealed by Act 275 of 2016. Regulation 63-30 sets forth the standards and process for the SCDOT Commission's approval required by the former Section 57-1-370(N). Regulation 63-30 is no longer required or needed due to the repeal of Section 57-1-370(N). Therefore, SCDOT proposes to repeal Regulation 63-30 in its entirety.

A Notice of Drafting for the proposed changes to Regulation 63-30 was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion:

All Sections of Regulation 63-30 are proposed to be repealed.

Notice of Public Hearing and Opportunity for Public Comment:

Should a public hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code of Laws, as amended, the hearing will be conducted at 955 Park Street, Columbia, South Carolina in connection with the SCDOT Commission's December 1, 2016 meeting. Written comments about the proposed repeal of Regulation 63-30 or requests for a hearing may be directed to Linda C. McDonald, SCDOT Chief Counsel, Post Office Box 191, Columbia, SC 29202. To be considered comments or requests must be received no later than November 28, 2016.

Preliminary Fiscal Impact Statement:

SCDOT does not anticipate additional costs to the State or its political subdivisions as a result of the proposed repeal of Regulation 63-30.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 63-30. Commission Approval of Actions.

Purpose: Former Section 57-1-370(N) of the Code of Laws, 1976, as amended, required the SCDOT Commission to approve requests for resurfacing, installation of new signals, curb cuts on primary roads, bike lanes, and construction projects under ten million dollars. It also required the Commission to certify that the request was needed based on objective and quantifiable factors. Section 57-1-370(N) was repealed by Act 275 of 2016. Regulation 63-30 sets forth the standards and process for the SCDOT Commission's approval required by the former Section 57-1-370(N). Regulation 63-30 is no longer required or needed due to the repeal of Section 57-1-370(N) and should be repealed.

Legal Authority: SCDOT has general authority to promulgate regulations pursuant to 57-3-110(8). SCDOT has authority to recommend repeal of Regulation 63-30 because the General Assembly repealed Section 57-1-370(N) pursuant to Act 275 of 2016. Section 57-1-370(N) was the basis for Regulation 63-30.

Plan for Implementation: After the repeal of Regulation 63-30, SCDOT will publish on its website Engineering Directives setting forth the procedures and standards for approval by SCDOT of requests for resurfacing, new signals, curb cuts, bike lanes and construction projects.

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

The current regulation is unnecessary due to the repeal of Section 57-1-370(N) pursuant to Act 275 of 2016. Therefore, the repeal of Regulation 63-30 is needed and reasonable.

DETERMINATION OF COSTS AND BENEFITS:

SCDOT anticipates no additional costs to the State will be created by the repeal of Regulation 63-30.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENTAL AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

Former Section 57-1-370(N) of the Code of Laws, 1976, as amended, required the SCDOT Commission to approve requests for resurfacing, installation of new signals, curb cuts on primary roads, bike lanes, and construction projects under ten million dollars. It also required the Commission to certify that the request was needed based on objective and quantifiable factors. Section 57-1-370(N) was repealed by Act 275 of 2016. Regulation 63-30 sets forth the standards and process for the SCDOT Commission's approval required by the former Section 57-1-370(N). Regulation 63-30 is no longer required or needed due to the repeal of Section 57-1-370(N). Regulation 63-30 should be repealed.

Text:

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

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Document No. 4684
DEPARTMENT OF TRANSPORTATION
CHAPTER 63
Statutory Authority: 1976 Code Section 57-3-110(8)

63-100. Secretary of Transportation Approval of Actions.

Preamble:

Act 114 of 2007 restructured governance of South Carolina Department of Transportation (SCDOT). Sections 57-1-460 and 470 of the Code of Laws, 1976, as amended, enacted pursuant to Act 114, give the SCDOT Commission oversight of the approval of requests for routine operations and maintenance and emergency repairs. Regulation 63-100 sets forth the procedures and standards for Commission oversight of these operational approvals.

Act 275 of 2016 further restructured the governance of SCDOT. Act 275 repealed many of the provisions of Act 114 of 2007 that had given the SCDOT Commission oversight of operational matters. For example, Act 275 repealed Section 57-1-370(N), which required the Commission to approve all requests for resurfacing, new signals, curb cuts, bike lanes and construction projects under ten million dollars. It appears that the failure of Act 275 to repeal Sections 57-1-460 and 470 was an oversight. SCDOT anticipates that the General Assembly during its 2017 session will repeal Sections 57-1-460 and 470, rendering Regulation 63-100 unnecessary. Therefore, SCDOT is proposing that Regulation 63-100 be repealed, contingent upon General Assembly's action making the regulation unnecessary.

A Notice of Drafting for proposed changes to Regulation 63-100 was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion:

All Sections of Regulation 63-100 are proposed to be repealed.

Notice of Public Hearing and Opportunity for Public Comment:

Should a public hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code of Laws, as amended, the hearing will be conducted at 955 Park Street, Columbia, South Carolina in connection with the SCDOT Commission's December 1, 2016 meeting. Written comments about the proposed repeal of Regulation 63-100 or requests for a hearing may be directed to Linda C. McDonald, SCDOT Chief Counsel, Post Office Box 191, Columbia, SC 29202. To be considered comments or requests must be received no later than November 28, 2016.

Preliminary Fiscal Impact Statement:

SCDOT does not anticipate additional costs to the State or its political subdivisions as a result of the proposed repeal of Regulations 63-100.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 63-100. Secretary of Transportation Approval of Actions.

Purpose: To repeal Regulation 63-100 contingent upon General Assembly action during its 2017 session repealing Sections 57-1-460 and 470 of the 1976 Code of Laws, as amended.

Legal Authority: SCDOT has general authority to promulgate regulations pursuant to 57-3-110(8). SCDOT has authority to recommend repeal of Regulation 63-100 contingent upon General Assembly action in its 2017 session.

Plan for Implementation: After the repeal of Regulation 63-100, SCDOT will publish on its website Engineering Directives setting forth the procedures and standards for approval by SCDOT of requests for routine operations and maintenance requests. Section 57-5-1620 of the 1976 Code of Laws, as amended, already sets forth the procedure for approval of emergency repairs.

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

Regulation 63-100 will be unnecessary if the General Assembly, as it is expected to do, takes action to remove Commission oversight of approvals of routine operations and maintenance and emergency repairs pursuant to Sections 57-1-460 and 470.

DETERMINATION OF COSTS AND BENEFITS:

SCDOT anticipates no additional costs to the State will be created by the repeal of Regulation 63-100.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENTAL AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

Regulation 63-100 will be unnecessary if the General Assembly, as it is expected to do, takes action in its to remove Commission oversight of approvals of routine operations and maintenance and emergency repairs pursuant to Sections 57-1-460 and 470.

Text:

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

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Document No. 4683

DEPARTMENT OF TRANSPORTATION

CHAPTER 63

Statutory Authority: 1976 Code Section 57-3-110(8)

63-10. Transportation Project Prioritization.

Preamble:

South Carolina Department of Transportation (SCDOT) proposes to amend Regulation 63-10 regarding Transportation Project Prioritization to add new definitions; change the name of the “State Comprehensive Plan” to the “Statewide Multimodal Transportation Long Range Plan” (“Multimodal Plan”); clarify that there are multiple project ranking lists in each program category, not one statewide ranking list; delete State Infrastructure Bank projects as projects not subject to the project prioritization process; clarify how SCDOT considers the 57-1-370(B)(8) criteria in its project development process.

A Notice of Drafting for the proposed amendments to Regulation 63-10 was published in the *State Register* on September 23, 2016.

Section-by-Section Discussion:

- 63-10(A) Definitions are rearranged in alphabetical order. New definitions are added for the following terms: “Commission,” “Department,” “Secretary,” “State Highway Engineer,” “State Highway System,” and “Transportation Asset Management Plan (“TAMP”). “Project priority list” is changed to “project priority lists” to clarify that there are multiple priority lists, not one statewide list. The “State Comprehensive Plan” is renamed the “Statewide Multimodal Transportation Long Range Plan (“Multimodal Plan”)” to conform to new terminology adopted by SCDOT. The reference to “objectives and performance measures for preservation” is deleted as a part of the “Multimodal Plan,” and added to the definition of the TAMP. “Other regionally significant projects” are added as projects to be listed in the STIP. Definitions for “Publications” and “traffic control devices” are deleted as no longer relevant. These definitions apply to the regulations in 63-30 and 63-100, which are being proposed for repeal.
- 63-10(B) The “State Comprehensive Plan” is renamed the “Statewide Multimodal Transportation Long Range Plan (“Multimodal Plan”)” to conform to new terminology adopted by the Department. The frequency for updating the Multimodal Plan is changed from “every five years” to “approximately every five years.” The reference to “objectives and performance measures for preservation and improvement of the existing system” is deleted as a part of the Multimodal Plan. This language is added to the definition of the TAMP. The subdivision into categories of the “Multimodal Plan” is no longer limited to the categories listed, but will include “at least” the categories listed. The category formerly entitled “maintenance” is changed to “pavements.”
- 63-10(C) (1) Changes “statewide” project priority lists to lists for “each program category.” Deletes State Infrastructure Bank (“SIB”) projects from the list of projects that are not subject to the project prioritization process. Act 275 of 2016, Section 7 requires the prioritization of SIB projects. (To be codified in Section 11-43-265, in 1976 Code of Laws, as amended.) Deletes Congressional earmark projects and projects individually funded by General Assembly as projects to be prioritized.
- (2) Changes “list” to “lists.” Deletes characterization of the project priority lists as “a decision making tool.” Capitalizes the term “Commission.”

- (3) Changes “project” category to “program” category. Clarifies that the State Highway Engineer will issue the engineering directives to describe the ranking processes. Clarifies that there will be multiple ranking processes, not one. Ranking processes differ from one program category to another because different criteria are applicable to each program category.
- (4) Changes “project” categories to “program” categories. Deletes specific elements of environmental impact to be evaluated in each program category because the prioritization process is not that specific. Environmental impact is evaluated during the environmental review process required by the National Environmental Policy Act (“NEPA”).
- (5) Clarifies that the time for evaluation of “alternative transportation solutions” is during the environmental review process rather than the project prioritization process.
- (6) Clarifies that the time for evaluation of “local land use plans” is during the long range planning process rather than the project prioritization process.
- (7) Changes “project” categories to “program” category. Adds “transportation economic development models” as a consideration in the evaluation of “potential for economic development.”
- (8) Clarifies that the time for the evaluation of “financial viability” is during the development of the TAMP rather than the project prioritization process.

Notice of Public Hearing and Opportunity for Public Comment:

Should a public hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code of Laws, as amended, the hearing will be conducted at 955 Park Street, Columbia, South Carolina in connection with the SCDOT Commission’s December 1, 2016 meeting. Written comments about these proposed amendments to Regulation 63-10 or requests for a hearing may be directed to Linda C. McDonald, SCDOT Chief Counsel, Post Office Box 191, Columbia, SC 29202. To be considered comments or requests must be received no later than November 28, 2016.

Preliminary Fiscal Impact Statement:

SCDOT does not anticipate additional costs to the State or its political subdivisions to comply with the proposed amendments to the regulations.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 63-10. Transportation Project Prioritization.

Purpose: Section 57-1-370(B)(8) of the Code of Laws, 1976, as amended, requires the SCDOT Commission to prioritize transportation projects using certain statutory criteria. Section 5 of Act 114 of 2007, formerly codified as Section 57-1-370(H), required SCDOT to promulgate regulations setting forth procedures for prioritization. The purpose of the proposed amendments is to clarify and update the procedures described in the current regulations, which were promulgated pursuant to Act 114 of 2007.

Legal Authority: SCDOT has general authority to promulgate regulations pursuant to 57-3-110(8).

Plan for Implementation: The proposed amendments to Regulation 63-10 will have minimal effect on the practices of SCDOT. The proposed amendments simply clarify and update the current regulations to more accurately describe SCDOT’s processes and procedures for project prioritization.

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

The current regulations need to be clarified and updated to give notice to the public of SCDOT's current processes and procedures for project prioritization. The proposed amendments will make corrections to the current regulations to more accurately describe SCDOT's processes and procedures.

DETERMINATION OF COSTS AND BENEFITS:

The project prioritization process is required by Section 57-1-370(B)(8). SCDOT anticipates no additional costs to the State will be created by the proposed amendments. The benefit of the proposed amendments is to clarify and update the current regulations.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENTAL AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

Section 57-1-370(B)(8) of the Code of Laws, 1976, as amended, requires the SCDOT Commission to prioritize transportation projects using certain statutory criteria. Section 5 of Act 114 of 2007, formerly codified as Section 57-1-370(H), required SCDOT to promulgate regulations to set forth procedures for prioritization. The purpose of the proposed amendments is to clarify and update the processes and procedures described in the current regulations. There are no scientific or technical studies necessary for these amendments.

Text:

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

Filed: October 10, 2016 9:50am

Document No. 4672
DEPARTMENT OF INSURANCE
 CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-10 et seq., 38-3-110, 38-3-410 et seq., and Executive Order 2016-26

69-78. Moratorium on Cancellation Due to Nonpayment of Premiums and Certain Nonrenewals and Extension of Insurance-Related Provisions Affecting Insureds in South Carolina Impacted by Hurricane Matthew.

Emergency Situation:

On October 4, 2016, by Executive Order 2016-26, Governor Nikki Haley declared a state of emergency due to Hurricane Matthew, a catastrophic storm event. Areas of South Carolina have been directly impacted by Hurricane Matthew's tropical and hurricane force winds, heavy rainfall, and storm surge creating flooding and other emergency conditions. The threat of hurricane, tropical force winds and storm surge necessitated the closing of many businesses, roads and interstates throughout South Carolina. Coastal counties in South Carolina were evacuated to protect the health, safety, and welfare of South Carolina residents and visitors.

Hurricane Matthew arrived off the coast of South Carolina on Saturday, October 8, 2016. As a result of the impact of Hurricane Matthew, some areas of the state experienced storm surges causing inundation. Wind gusts of up to 88 miles per hour (mph) have been reported. Over 400,000 South Carolina residents were without power by Saturday morning, with more power outages expected and some expected to continue for extended periods of time. Significant property damage due to hurricane force winds, felled trees and power outages and loss of hundreds of lives have already been associated with this severe weather event in the Caribbean and Florida. Hurricane Matthew has impacted the public health, safety, and welfare of South Carolina consumers necessitating the immediate promulgation of an emergency regulation.

To help provide safeguards for consumers and to ensure that South Carolina insureds affected by this disaster do not suffer any additional unnecessary hardship, all individuals, entities, and persons licensed or authorized to transact insurance business in this State are hereby required to implement the safeguards listed below for all lines of business. These safeguards address problems consumers may face due to circumstances that make it difficult for them to take normal action required by policy language or otherwise required by insurer policies or procedures. These measures are intended to provide some peace of mind during the recovery process and help ensure that disaster victims do not lose important insurance coverage during the time they need it most.

Text:

Section 1. Purpose

This Emergency Regulation is issued to expedite and facilitate the state's recovery from Hurricane Matthew to protect the interests of South Carolina insureds in light of this catastrophic event.

S.C. Code Ann. Section 38-3-410 *et. seq.* gives the Director the authority to adopt procedures that facilitate recovery from the emergency. South Carolina law requires that the emergency regulation address claims reporting requirements; grace periods for payment of premiums and performance of other duties by insureds; temporary postponement of cancellations and nonrenewals; and *any* other rule the Director considers necessary to aid the state's recovery from this catastrophic event.

Hurricane Matthew has disrupted the lives of many South Carolinians. Some consumers have been evacuated and may experience the destruction or damage of their homes and property. Thus, many victims are displaced

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and currently unable to timely act or respond to insurance notices or to timely pay insurance premiums and may need additional time within which to act or respond. Additionally, insureds who wish to make timely payment may be otherwise prevented from making such payments because of the effects of Hurricane Matthew and the aforementioned circumstances. This Emergency Regulation provides emergency relief to the insureds of South Carolina affected by this disaster event. It is the expectation of this Department that insurers will be guided by a “reasonableness” standard and, when uncertain, will “err” on the side of the consumer.

Section 2. Definitions

As used in this regulation, the terms below have the following meaning:

(1) “Insured” includes, but is not limited to, a person, policyholder, member, subscriber, enrollee, covered individual, or certificate holder for which coverage or benefits are provided under an insurance contract that is subject to regulation under the South Carolina Insurance Law.

(2) “Insurer” means any person or entity that is licensed, authorized, registered, or otherwise subject to regulation under the South Carolina Insurance Law that provides insurance coverage for one or more of the line(s) of insurance as defined in subitem (3).

(3) “Line of insurance” or “lines of insurance” includes any insurance contract that is subject to regulation under the South Carolina Insurance Law and includes, but is not limited to, flood insurance (not issued pursuant to the National Flood Insurance Program), property insurance, automobile insurance, liability insurance, casualty insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, life insurance, accident and health insurance, credit life insurance, credit property insurance, annuities, health maintenance organizations (HMOs), excess and surplus lines insurance, reciprocal insurance, and stop loss insurance. It does not include workers’ compensation insurance.

(4) “Person” means, as defined in S.C. Code Section 38-1-20(44) (2015).

(5) “Impacted area” includes Beaufort, Berkeley, Charleston, Colleton, Dorchester, Georgetown, Horry and Jasper Counties.

(6) “Insurance contract” means a plan, policy, contract, certificate, or agreement that is subject to regulation under the South Carolina Insurance Law. It includes premium service company agreements relating to people, property, or risks located in the impacted area.

Section 3. Scope and Applicability

This regulation shall apply to all insurers with respect to any insurance contract that is (1) for any line of insurance and (2) relates to either an insured residing in an impacted area or an insured’s risk located in an impacted area.

Section 4. 60-Day Moratorium on Cancellations Due to Nonpayment of Premium and on Nonrenewals

There is a 60-day moratorium on the cancellation of any insurance contract attributed to a failure to pay premium(s) by insureds. This is not a waiver; it is only an extension or grace period in which to pay premiums.

In the case of an insurance contract for which a nonrenewal takes effect during the moratorium period, coverage shall be continued at the request of the insured for the duration of the moratorium period. An insured requesting a temporary extension of coverage under this provision is responsible for any additional premium owed during the time period for which coverage is extended.

After the moratorium, insurers shall work with insureds directly impacted by the disaster event that may request or require additional time to pay premiums that would have been due during the moratorium (e.g., payment plan or further extension of the date by which the amount due must be paid in full).

The 60-day moratorium period begins Saturday, October 8, 2016 and ends December 7, 2016. For insureds displaced as a result of or directly impacted by the disaster event, the Department expects insurers to apply this moratorium retroactively to October 4, 2016 (the day before evacuations began).

Section 5. Exceptions to Contract Requirements or Underwriting Decisions for Insureds Directly Impacted by the Disaster Event

Insurers shall consider exceptions to insurance contract or underwriting requirements for insureds displaced or directly impacted by the disaster event. This includes, but is not limited to:

- a. an extension of proof of loss deadlines;
- b. waivers of limitations relating to the use of out-of-network providers; and
- c. insureds that may temporarily be unable to receive or timely act in response to notices regarding underwriting decisions.

Any such exception will not be considered unfairly discriminatory if it is focused on providing additional consumer protections for insureds that are particularly devastated by this disaster event.

With respect to insureds that contact their insurer, or a representative of their insurer, for the express purpose of obtaining a letter documenting that coverage does not exist for damages resulting from the disaster event in order to complete an application for governmental assistance (e.g., Federal Emergency Management Agency Individual Assistance), an insurer must not consider this contact as a claim or a claim inquiry for purposes of rating, underwriting, or reporting to a third-party claims history database.

Section 6. Cancellation and Nonrenewal

No insurance contract shall be cancelled or nonrenewed solely because of a claim resulting from this disaster event. This section is not limited to impacted counties.

Section 7. Policy Cancellation Permissible Upon Request

Nothing in this regulation shall prevent an insurer from cancelling an insurance contract upon the documented request or concurrence of the insured.

Section 8. Copy of Insurance Contract to be Provided at No Cost to Impacted Insureds

If an insured displaced as a result of or directly impacted by the disaster event requests a copy of his insurance contract, the insurer shall provide a copy of the requested contract at no cost to the insured within fifteen calendar days of the written request.

Section 9. Adjustment and Settlement of Claims

Insurers should always promptly and in good faith adjust and pay all valid insurance claims. This is extremely important following a declared disaster emergency with respect to claims related to the disaster. S. C. Code Ann. Section 38-59-20(4) (2015) requires that claim payments be made in a prompt, fair, and equitable manner. The Director expects insurers take the following action upon receiving notice of a claim, keeping in mind that the magnitude of and circumstances surrounding the disaster may impact the adjustment and settlement of individual claims:

- a. Promptly establish contact with the claimant;
- b. Promptly survey and assess the claimant's damage;
- c. Accurately and completely respond to Department inquiries, including inquiries made relating to consumer complaints filed with the Department, by the deadline prescribed by the Department;
- d. Promptly inform claimants of any documents that must be submitted to evaluate or process a claim;
- e. Provide prompt and accurate responses to claimants;
- f. Provide prompt payment for additional living expenses and temporary repairs after the assessment of the insured's or claimant's damage;
- g. Promptly set appointments with the claimant for examination and resolution of claim matters.

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If necessary, the Director may establish a mediation program to facilitate the resolution of disputed open claims for damage to real and personal property resulting from the disaster. The requirements for any such program will be established by order or subsequent amendment to this regulation.

Section 10. Method of Payment for Claims

In order to facilitate the resolution of claims in an expeditious manner, claims payment may be made by insurers by issuance of a prepaid debit card or any other form of electronic transfer *provided* (1) the insured is informed that payment in this manner is a voluntary option for payment and agrees to the method of payment; (2) the method of payment is not subject to any fees that would result in the insured receiving less than the full amount due; (3) the insured is permitted, at any time, to convert any balance into cash; and (4) the insured is notified of applicable terms and conditions.

Section 11. Premium Offset

In the course of settlement of a claim from an insured, any claim payment made to the insured or beneficiary under the insurance policy may not include an offset for any premium due unless the insured or beneficiary agrees in writing to an offset.

This section is not applicable to accident and health insurance coverage or any coverage provided by HMOs.

Section 12. Prescription Refills

An insurance policy or contract, including an HMO, that provides coverage for prescription drugs must allow one early refill of a prescription if there are authorized refills remaining or allow one replacement prescription for a prescription that was recently filled for insureds who reside in the impacted area. This section is valid for requests made on or before October 31, 2016.

Section 13. Cancellation for Fraud or Material Representation

This regulation shall not be construed so as to prevent an insurer from canceling or terminating coverage for fraud or material misrepresentation in accordance with applicable law.

Section 14. Insured's Obligation to Provide Information and Cooperation

This regulation shall not relieve an insured who has a claim caused by this disaster event from compliance with the insured's obligation to provide information and cooperate in the adjustment or investigative process related to the claim.

Section 15. Waiver of Certain Interest, Penalties, Fees and Other Charges

The Director expects insurers to suspend the imposition of fees, penalties, or interest that would be charged due to an insured's temporary inability to submit premium payments or otherwise respond as a result of this disaster event. Examples include, but are not limited to, fees, penalties, or interest resulting from insufficient funds, late payments, or reinstatements.

Fees that are not the result of an insured's failure to timely or completely respond are not impacted by this provision.

Section 16. Intent and Construction

The benefits, entitlements, and protections of this regulation shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of South Carolina.

Insurers, as defined in this regulation, should take into consideration the difficulties related to this weather event that citizens of this state have suffered and continue to suffer and should take such consideration into account when dealing with matters relating to collection of premium, cancellation, nonrenewal, documentation and other requirements or policy provisions, including, but not limited to: notifications of hospital admissions; due dates relating to claims; premium payments; optional service fees; prior authorization requirements; and limitations on prescription refills.

The Department will review allegations or disputes, and if warranted, direct the insurer to work with the insured by providing the relief required in this regulation or to take other corrective action. If the insurer fails to comply, the matter will be referred for further investigation.

Section 17. Sanctions for Violations

The Director retains the authority to enforce violations of this regulation. Accordingly, any insurer, person, or entity subject to regulation under the South Carolina Insurance Law who violates any provision of this regulation shall be subject to institution of administrative or civil action by the Director under any applicable provisions of the South Carolina Insurance Law, including the provisions of SC Code Ann. Section 38-2-10. These provisions include penalties of up to \$15,000 for each violation or \$30,000 for each violation if the violation is willful. In addition to the fines listed, the insurer, person or entity may also be subject to suspension or revocation of its authority to transact business subject to the Insurance Law in South Carolina.

Section 18. Emergency Motor Vehicle Physical Damage Appraisers

Due to the inundation and catastrophic flooding caused by Hurricane Matthew, the Director has determined that the licensure of emergency motor vehicle physical damage appraisers is necessary. The resolution of claims related to such covered losses may not occur expeditiously without the authorization of emergency motor vehicle physical damage appraisers. This action is being taken to ensure that motor vehicle physical damage appraisers are available to assist with the evaluation of claims for South Carolina consumers.

Insurers interested in appointing nonresident, temporary motor vehicle damage appraisers may obtain the procedures and forms for licensure from the Department's website at doi.sc.gov/emergencyappraiser. Insurers are responsible for the actions of any temporary motor vehicle physical damage appraiser or temporary adjuster it appoints to represent it during this catastrophic event and are subject to the penalties set forth in SC Code Ann. Section 38-2-10 for violations of the South Carolina Insurance Laws.

Section 19. Rate, Rule, and Form Filing Deemer Dates

The Director may extend the timeframes set forth in filing statutes, if necessary, to enable the Department to devote the resources necessary to the state's recovery from this catastrophic event.

Section 20. Authority

The Director reserves the right to extend, amend, modify, alter or rescind all or any portions of this emergency regulation via subsequent regulation or by order of the Director.

Section 21. Severability Clause

If any section or provision of this emergency regulation is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of this regulation, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

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Section 22. Effective Date

In accordance with S.C. Code Section 38-3-410, this regulation shall be effective immediately upon filing and shall continue for 120 days unless otherwise extended or terminated by the Director.

Statement of Need and Reasonableness:

The emergency regulation is needed to protect the interests of South Carolina insurance consumers and to expedite and facilitate the state's recovery from Hurricane Matthew.

Fiscal Impact Statement:

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