

## **SOUTH CAROLINA STATE REGISTER DISCLAIMER**

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# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
THE LEGISLATIVE COUNCIL  
of the  
GENERAL ASSEMBLY

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**Published May 27, 2016**

Volume 40 Issue No. 5

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**

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

## **PUBLIC INSPECTION OF DOCUMENTS**

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

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

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

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

## **EMERGENCY REGULATIONS**

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

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

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

## **EFFECTIVE DATE OF REGULATIONS**

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

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

## SUBSCRIPTIONS

The *South Carolina State Register* is available electronically through the South Carolina Legislature Online website at [www.scstatehouse.gov](http://www.scstatehouse.gov), or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for the printed format is \$100.00. Payment must be made by check payable to the Legislative Council. To subscribe, complete the form below and mail with payment.

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# REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

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 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regsrch.php>

DOC. No.	RAT. No.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4527	SR40-2		Consumer Credit Counseling Requirements	1/12/16	Department of Consumer Affairs
4533	SR40-2		South Carolina National Guard College Assistance Program	1/13/16	Commission on Higher Education
4534	SR40-2		South Carolina National Guard Student Loan Repayment Program	1/13/16	Commission on Higher Education
4524	SR40-2		Suspension of Certification Due to Criminal Charges and/or Indictment	1/14/16	South Carolina Criminal Justice Academy
4539	SR40-2		Consumer Electronic Equipment Collection and Recovery	2/01/16	Department of Health and Envir Control
4543	SR40-3		Standards for Licensing Nursing Homes	2/28/16	Department of Health and Envir Control
4552	SR40-4		Horse Meat and Kangaroo Meat; Fairs, Camp Meetings, and Other Gatherings; Camps; Mobile/Manufactured Home Parks; Sanitation of Schools; and Nuisances	3/14/16	Department of Health and Envir Control
4553	SR40-4		Standards for Licensing Hospices	3/27/16	Department of Health and Envir Control
4562	SR40-4		Board of Long Term Health Care Administrators	3/28/16	LLR-Board of Long Term Health Care Administrators
4563	SR40-4		Local Emergency Preparedness Standards	4/05/16	Office of the Governor
4565	SR40-5		Underground Storage Tank Control Regulations	4/25/16	Department of Health and Envir Control
4564	SR40-5		Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions	4/30/16	Department of Health and Envir Control
4573	SR40-5		Continuing Education in Sterilization and Infection Control	5/11/16	LLR-Board of Dentistry
4574	SR40-5		Pilot Registration	5/11/16	LLR-Commissioners of Pilotage
4567	SR40-5		Crabmeat	5/11/16	Department of Health and Envir Control
4568	SR40-5		Standards for Licensing Tattoo Facilities	5/11/16	Department of Health and Envir Control
4569	SR40-5		Standards for Permitting Body Piercing Facilities	5/11/16	Department of Health and Envir Control
4570	SR40-5		Natural Public Swimming Areas	5/11/16	Department of Health and Envir Control
4585	SR40-5		State Emergency Preparedness Standards	5/11/16	Office of the Governor
4588	SR40-5		Safeguarding Patient Medical Records	5/11/16	LLR-Board of Medical Examiners
4589	SR40-5		Continuing Education, Payment of Fees, Appraisal Experience, and Appraiser Apprentice Requirements	5/11/16	LLR-Reals Estate Appraisers Board
4578	SR40-5		South Carolina Trauma Care Systems	5/11/16	Department of Health and Envir Control
4571	SR40-5		Well Standards	5/11/16	Department of Health and Envir Control
4594	SR40-5		Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems	5/11/16	Department of Health and Envir Control
4591	SR40-5		Onsite Wastewater Systems	5/11/16	Department of Health and Envir Control
4630			Residential Specialty Contractors License	5/13/16	LLR-Residential Builders Commission
4626			Guidelines for Sedation and General Anesthesia	5/13/16	LLR-Board of Dentistry
4627			Fees for Registration and Renewal	5/13/16	LLR-Board of Registration for Foresters
4601			Minimum Requirements for Licensing Cosmetologists as Master Hair Care Specialists	5/13/16	LLR-Board of Barber Examiners
4592			Continuing Competency; Continuing Education Credits	5/13/16	LLR-Panel for Dietetics
4586			Special Education, Education of Students with Disabilities	5/13/16	State Board of Education
4618			Fire Prevention and Life Safety	5/14/16	LLR-Office of State Fire Marshal
4619			Fire Prevention and Life Safety for Special Occupancies	5/14/16	LLR-Office of State Fire Marshal
4621			Hydrogen Facilities	5/14/16	LLR-Office of State Fire Marshal
4623			Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	5/14/16	LLR-Office of State Fire Marshal
4620			Fireworks and Pyrotechnics	5/14/16	LLR-Office of State Fire Marshal
4617			Explosives	5/14/16	LLR-Office of State Fire Marshal
4580			Vital Statistics	5/16/16	Department of Health and Envir Control
4603			Alignment of Assessment and Accountability Elements with the No Child Left Behind Act	5/18/16	State Board of Education
4590			Air Pollution Control Regulations and Standards	5/18/16	Department of Health and Envir Control
4622			Liquefied Petroleum (LP) Gas	5/19/16	LLR-Office of State Fire Marshal
4611			Psittacine Birds	5/20/16	Department of Health and Envir Control
4612			Sexually Transmitted Diseases	5/20/16	Department of Health and Envir Control
4613			Solid Waste Management: Used Oil	5/20/16	Department of Health and Envir Control
4606			Test Security	5/20/16	State Board of Education
4602			2015 Edition of International Codes and 2014 Edition of the National Electrical Code	5/20/16	LLR-Building Codes Council
4604			Assessment Program	5/21/16	State Board of Education
4607			Charges for Family Planning Services	5/21/16	Department of Health and Envir Control
4609			Communicable Diseases	5/21/16	Department of Health and Envir Control
4608			Charges for Maternal and Child Health Services	5/21/16	Department of Health and Envir Control
4605			District and School Planning	5/21/16	State Board of Education
4596			Residential Treatment Facilities for Children and Adolescents	5/22/16	Department of Health and Envir Control
4614			Solid Waste Management: Solid Waste Incineration and Solid Waste Pyrolysis Facilities	5/24/16	Department of Health and Envir Control



## 2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4616	The Evaluation of School Employees for Tuberculosis	5/24/16	Department of Health and Envir Control
4595	X-Rays (Title B)	5/25/16	Department of Health and Envir Control
4593	Program Approval Standards for South Carolina Teacher Education Institutions	5/31/16	State Board of Education
4615	Coastal Division Regulations	6/02/16	Department of Health and Envir Control
4610	Emergency Medical Services	6/02/16	Department of Health and Envir Control
4634	Additional Regulations Applicable to Specific Properties	1/11/17	Department of Natural Resources
4635	Wildlife Management Area Regulations; and Turkey Hunting Rules and Seasons	1/11/17	Department of Natural Resources
4636	Accreditation Criteria	1/22/17	State Board of Education
4637	Certification Requirements	1/22/17	State Board of Education
4638	Credential Classification	1/22/17	State Board of Education
4639	Requirements for Additional Areas of Certification	1/22/17	State Board of Education
4575	Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities	1/23/17	Department of Revenue
4576	Hotels, Motels, and Similar Facilities	1/23/17	Department of Revenue
4624	Professional Employer Organizations	2/28/17	Department of Consumer Affairs
4625	Licensing Standards for Continuing Care Retirement Communities	2/28/17	Department of Consumer Affairs
4645	Unemployment Trust Fund Solvency	3/21/17	Department of Employment and Workforce
<b>Resolution Introduced to Disapprove</b>			
4551	Certification of Need for Health Facilities and Services	Tolled	Department of Health and Envir Control
4538	Certification of Need for Health Facilities and Services	Tolled	Department of Health and Envir Control
<b>Permanently Withdrawn</b>			
4581	WIC Vendors		Department of Health and Envir Control
4566	Examination Attempts, Apprenticeship, and Continuing Education Requirements		LLR-Board of Examiners in Opticianry
4628	Classification of Residential Specialty Contractors		LLR-Residential Builders Commission
4629	Residential Specialty Contractors License		LLR-Residential Builders Commission

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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.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4527	Consumer Credit Counseling Requirements	Labor, Commerce and Industry	Banking and Insurance
4533	South Carolina National Guard College Assistance Program	Education and Public Works	Education
4534	South Carolina National Guard Student Loan Repayment Program	Education and Public Works	Education
4524	Suspension of Certification Due to Criminal Charges and/or Indictment	Judiciary	Judiciary
4539	Consumer Electronic Equipment Collection and Recovery	Agriculture and Natural Resources	Agriculture and Natural Resources
4543	Standards for Licensing Nursing Homes	Regulations and Admin. Procedures	Medical Affairs
4552	Horse Meat and Kangaroo Meat; Fairs, Camp Meetings, and Other Gatherings; Camps; Mobile/Manufactured Home Parks; Sanitation of Schools; and Nuisances	Regulations and Admin. Procedures	Medical Affairs
4553	Standards for Licensing Hospices	Regulations and Admin. Procedures	Medical Affairs
4562	Board of Long Term Health Care Administrators	Regulations and Admin. Procedures	Medical Affairs
4563	Local Emergency Preparedness Standards	Regulations and Admin. Procedures	General
4565	Underground Storage Tank Control Regulations	Regulations and Admin. Procedures	Medical Affairs
4564	Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions	Regulations and Admin. Procedures	Medical Affairs
4573	Continuing Education in Sterilization and Infection Control	Regulations and Admin. Procedures	Medical Affairs
4574	Pilot Registration	Regulations and Admin. Procedures	Labor, Commerce and Industry
4567	Crabmeat	Regulations and Admin. Procedures	Agriculture and Natural Resources
4568	Standards for Licensing Tattoo Facilities	Regulations and Admin. Procedures	Medical Affairs
4569	Standards for Permitting Body Piercing Facilities	Regulations and Admin. Procedures	Medical Affairs
4570	Natural Public Swimming Areas	Regulations and Admin. Procedures	Medical Affairs
4585	State Emergency Preparedness Standards	Regulations and Admin. Procedures	General
4588	Safeguarding Patient Medical Records	Regulations and Admin. Procedures	Labor, Commerce and Industry
4589	Continuing Education, Payment of Fees, Appraisal Experience, and Appraiser Apprentice Requirements	Regulations and Admin. Procedures	Labor, Commerce and Industry
4578	South Carolina Trauma Care Systems	Regulations and Admin. Procedures	Medical Affairs
4571	Well Standards	Regulations and Admin. Procedures	Medical Affairs
4594	Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems	Regulations and Admin. Procedures	Medical Affairs
4591	Onsite Wastewater Systems	Regulations and Admin. Procedures	Medical Affairs
4630	Residential Specialty Contractors License	Regulations and Admin. Procedures	Labor, Commerce and Industry
4626	Guidelines for Sedation and General Anesthesia	Regulations and Admin. Procedures	Medical Affairs
4627	Fees for Registration and Renewal	Regulations and Admin. Procedures	Fish, Game and Forestry
4601	Minimum Requirements for Licensing of Cosmetologists as Master Hair Care Specialists	Regulations and Admin. Procedures	Labor, Commerce and Industry
4592	Continuing Competency; Continuing Education Credits	Regulations and Admin. Procedures	Medical Affairs
4586	Special Education, Education of Students with Disabilities	Regulations and Admin. Procedures	Education
4618	Fire Prevention and Life Safety	Regulations and Admin. Procedures	Labor, Commerce and Industry
4619	Fire Prevention and Life Safety for Special Occupancies	Regulations and Admin. Procedures	Labor, Commerce and Industry
4621	Hydrogen Facilities	Regulations and Admin. Procedures	Labor, Commerce and Industry
4623	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	Regulations and Admin. Procedures	Labor, Commerce and Industry
4620	Fireworks and Pyrotechnic	Regulations and Admin. Procedures	Labor, Commerce and Industry
4617	Explosives	Regulations and Admin. Procedures	Labor, Commerce and Industry
4580	Vital Statistics	Regulations and Admin. Procedures	Medical Affairs
4603	Alignment of Assessment and Accountability Elements with the No Child Left Behind Act	Regulations and Admin. Procedures	Education
4590	Air Pollution Control Regulations and Standards	Regulations and Admin. Procedures	Medical Affairs
4622	Liquefied Petroleum (LP) Gas	Regulations and Admin. Procedures	Labor, Commerce and Industry
4611	Psittacine Birds	Regulations and Admin. Procedures	Agriculture and Natural Resources
4612	Sexually Transmitted Diseases	Regulations and Admin. Procedures	Medical Affairs
4613	Solid Waste Management: Used Oil	Regulations and Admin. Procedures	Medical Affairs
4606	Test Security	Regulations and Admin. Procedures	Education
4602	2015 Edition of International Codes and 2014 Edition of the National Electrical Code	Regulations and Admin. Procedures	Labor, Commerce and Industry
4604	Assessment Program	Regulations and Admin. Procedures	Education
4607	Charges for Family Planning Services	Regulations and Admin. Procedures	Medical Affairs
4609	Communicable Diseases	Regulations and Admin. Procedures	Medical Affairs
4608	Charges for Maternal and Child Health Services	Regulations and Admin. Procedures	Medical Affairs
4605	District and School Planning	Regulations and Admin. Procedures	Education
4596	Residential Treatment Facilities for Children and Adolescents	Regulations and Admin. Procedures	Medical Affairs
4614	Solid Waste Management: Solid Waste Incineration and Solid Waste Pyrolysis Facilities	Regulations and Admin. Procedures	Medical Affairs
4616	The Evaluation of School Employees for Tuberculosis	Regulations and Admin. Procedures	Medical Affairs
4595	X-Rays (Title B)	Regulations and Admin. Procedures	Medical Affairs

#### 4 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4593	Program Approval Standards for South Carolina Teacher Education Institutions	Regulations and Admin. Procedures	Education
4615	Coastal Division Regulations	Regulations and Admin. Procedures	Agriculture and Natural Resources
4610	Emergency Medical Service	Regulations and Admin. Procedures	Medical Affairs
4634	Additional Regulations Applicable to Specific Properties	Regulations and Admin. Procedures	Fish, Game and Forestry
4635	Wildlife Management Area Regulations; and Turkey Hunting Rules and Seasons	Regulations and Admin. Procedures	Fish, Game and Forestry
4636	Accreditation Criteria	Regulations and Admin. Procedures	Education
4637	Certification Requirements	Regulations and Admin. Procedures	Education
4638	Credential Classification	Regulations and Admin. Procedures	Education
4639	Requirements for Additional Areas of Certification	Regulations and Admin. Procedures	Education
4575	Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities	Regulations and Admin. Procedures	Finance
4576	Hotels, Motels, and Similar Facilities	Regulations and Admin. Procedures	Finance
4624	Professional Employer Organizations	Regulations and Admin. Procedures	Labor, Commerce and Industry
4625	Licensing Standards for Continuing Care Retirement Communities	Regulations and Admin. Procedures	Medical Affairs
4645	Unemployment Trust Fund Solvency	Regulations and Admin. Procedures	Labor, Commerce and Industry

**Resolution Introduced to Disapprove**

4551	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs
4538	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs

**Permanently Withdrawn**

4581	WIC Vendors	Regulations and Admin. Procedures	Medical Affairs
4566	Examination Attempts, Apprenticeship, and Continuing Education Requirements	Regulations and Admin. Procedures	Medical Affairs
4628	Classification of Residential Specialty Contractors	Regulations and Admin. Procedures	Labor, Commerce and Industry
4629	Residential Specialty Contractors License	Regulations and Admin. Procedures	Labor, Commerce and Industry

**STATE FISCAL ACCOUNTABILITY AUTHORITY  
OFFICE OF THE STATE ENGINEER**

**NOTICE OF GENERAL PUBLIC INTEREST**

This notice is published pursuant to Sections 1-23-40(2) and 1-34-30(B).

Section 10-1-180 charges the State Engineer with the enforcement and interpretation of building codes applicable to state buildings. Section 1-34-30 requires that an agency adopt the latest edition of all nationally recognized codes which the agency is charged by statute with enforcing and allows the agency to propose such adoption by publishing a notice in the State Register.

Pursuant to Section 1-34-30(A), the State Engineer published in the March 2016 issue of the State Register, notice of proposed adoption of the below listed codes. Having received no comments within 60 days of publication, the below listed codes are promulgated without amendment, effective July 1, 2016. Consistent with Section 10-1-180, information regarding the adoption of these codes, including the code editions, revision years, and any deletions, will be published in the Manual for Planning and Execution of State Permanent Improvements.

International Building Code (IBC), 2015 Edition  
 International Existing Building Code (IEBC), 2015 Edition  
 International Fire Code (IFC), 2015 Edition  
 International Fuel Gas Code (IFGC), 2015 Edition  
 International Mechanical Code (IMC), 2015 Edition  
 International Plumbing Code (IPC), 2015 Edition  
 International Private Sewage Disposal Code (IPSDC), 2015 Edition  
 International Property Maintenance Code (IPMC), 2015 Edition,  
 International Residential Code for One and Two Family Dwellings (IRC), 2015 Edition  
 International Wildland – Urban Interface Code (Iuwic), 2015 Edition  
 International Code Council Performance Code (ICCPC), 2015 Edition  
 International Swimming Pool and Spa Code (ISPSC), 2015 Edition

The following organization issued the above listed nationally recognized codes:

International Code Council Inc.  
 500 New Jersey Avenue, NW, 6<sup>th</sup> Floor  
 Washington, DC 2001-2070

National Electrical Code (NEC) [NFPA-70], 2014 Edition

The following organization issued the above listed nationally recognized code:

National Fire Protection Association  
 1 Battery March Park  
 Quincy, MA 02269

## 6 NOTICES

### 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 May 27, 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 Vonja Szatkowski, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3028.

##### **Affecting Aiken County**

###### **Critical Nurse Staffing, Inc. – Aiken County**

Establishment of a new Specialty Home Health Agency in Aiken County at a total project cost of \$7,500.

##### **Affecting Allendale County**

###### **Critical Nurse Staffing, Inc. – Allendale County**

Establishment of a new Specialty Home Health Agency in Allendale County at a total project cost of \$7,500.

##### **Affecting Barnwell County**

###### **Critical Nurse Staffing, Inc. – Barnwell County**

Establishment of a new Specialty Home Health Agency in Barnwell County at a total project cost of \$7,500.

##### **Affecting Beaufort County**

###### **Critical Nurse Staffing, Inc. – Beaufort County**

Establishment of a new Specialty Home Health Agency in Beaufort County at a total project cost of \$7,500.

##### **Affecting Berkeley County**

###### **Roper St. Francis Hospital - Berkeley Inc. d/b/a Roper St. Francis Hospital – Berkeley**

Addition of Cardiac Catheterization services to Roper St. Francis Hospital - Berkeley at a total project cost of \$2,873,366.

##### **Affecting Charleston County**

###### **Medical University Hospital Authority d/b/a Medical University of South Carolina (Hollings Cancer Center) – Charleston County**

Renovation of an existing facility to add a replacement linear accelerator and relocate prior linear accelerator to North Charleston at a total project cost of \$8,586,338.

###### **Critical Nurse Staffing, Inc. – Charleston County**

Establishment of a new Specialty Home Health Agency in Charleston County at a total project cost of \$7,500.

###### **South Bay Healthcare Center at Mt. Pleasant, LLC d/b/a South Bay at Mount Pleasant – Charleston County**

Construction of a 30 bed non-institutional nursing home in Charleston County at a total project cost of \$9,566,776.

**Affecting Chester County****Tri-County Home Health Care & Services, Inc. d/b/a Tri-County Home Health Care and Services, Inc. - Chester County**

Establishment of a new Home Health Agency in Chester County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$8,100.

**Affecting Edgefield County****Critical Nurse Staffing, Inc. – Edgefield County**

Establishment of a new Specialty Home Health Agency in Edgefield County at a total project cost of \$7,500.

**Affecting Hampton County****Critical Nurse Staffing, Inc. – Hampton County**

Establishment of a new Specialty Home Health Agency in Hampton County at a total project cost of \$7,500.

**Affecting Horry County****Grand Strand Regional Medical Center, LLC d/b/a Carolina Forest Emergency, a division of Grand Strand Medical Center – Horry County**

Construction of a Freestanding Emergency Department in Horry County at a total project cost of \$8,924,000.

**Affecting Jasper County****Critical Nurse Staffing, Inc. – Jasper County**

Establishment of a new Specialty Home Health Agency in Jasper County at a total project cost of \$7,500.

**Affecting Kershaw County****Midlands Regional Rehabilitation Hospital, LLC – Kershaw County**

Construction of a forty (40) bed Free Standing Rehabilitation Hospital for a total project cost of \$19,703,487.

**Affecting Lancaster County****Tri-County Home Health Care & Services, Inc. d/b/a Tri-County Home Health Care and Services, Inc. - Lancaster County**

Establishment of a new Home Health Agency in Lancaster County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$8,100.

**Affecting Laurens County****Tri-County Home Health Care & Services, Inc. d/b/a Tri-County Home Health Care and Services, Inc. - Laurens County**

Establishment of a new Home Health Agency in Laurens County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of

**Affecting Lexington County****Critical Nurse Staffing, Inc. – Lexington County**

Establishment of a new Specialty Home Health Agency in Lexington County at a total project cost of \$7,500.

## 8 NOTICES

### Affecting Orangeburg County

#### **Critical Nurse Staffing, Inc. – Orangeburg County**

Establishment of a new Specialty Home Health Agency in Orangeburg County at a total project cost of \$7,500.

### Affecting Pickens County

#### **Tri-County Home Health Care & Services, Inc. d/b/a Tri-County Home Health Care and Services, Inc. - Pickens County**

Establishment of a new Home Health Agency in Pickens County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$8,100.

### Affecting Richland County

#### **Critical Nurse Staffing, Inc. – Richland County**

Establishment of a new Specialty Home Health Agency in Richland County at a total project cost of \$7,500.

### Affecting Spartanburg County

#### **Carolina Orthopaedic & Neurosurgical Associates ASC – Spartanburg County**

Construction of a two operating room Ambulatory Surgical Facility in Spartanburg County at a total project cost of \$7,217,026.

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 May 27, 2016. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Vonja Szatkowski, 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) 545-3028.

### Affecting Allendale County

#### **Amedisys SC, LLC d/b/a Amedisys Home Health of Bluffton – Allendale County**

Establishment of a new Home Health Agency in Allendale County at a total project cost of \$18,138.

### Affecting Anderson County

#### **Amedisys Home Health, Inc. of South Carolina d/b/a Amedisys Home Health of Clinton – Anderson County**

Establishment of a new Home Health Agency in Anderson County at a total project cost of \$18,138.

### Affecting Barnwell County

#### **Amedisys SC, LLC d/b/a Amedisys Home Health of Lexington – Barnwell County**

Establishment of a new Home Health Agency in Barnwell County at a total project cost of \$18,138.

### Affecting Beaufort County

#### **HealthSouth Rehabilitation Hospital of Lowcountry, LLC – Beaufort County**

Construction of a new freestanding thirty-eight (38) bed Comprehensive Medical Rehabilitation (CMR) Hospital at a total project cost of \$21,965,765.

**SS&J Associates, LLC d/b/a BrightStar Care Lowcountry - Beaufort County**

Establishment of a new Home Health Agency in Beaufort County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,000.

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

Addition of Cardiac Catheterization services to Roper St. Francis Hospital - Berkeley at a total project cost of \$2,873,366.

**Affecting Charleston County****Trident Medical Center, LLC d/b/a Trident Medical Center – Charleston County**

Establishment of a new fourteen (14) bed rehabilitation unit to be located on the 6th floor of the main hospital campus at a total project cost of \$25,628.

**Medical University Hospital Authority d/b/a Medical University of South Carolina (Hollings Cancer Center) – Charleston County**

Renovation of an existing facility to add a replacement linear accelerator and relocate prior linear accelerator to North Charleston at a total project cost of \$8,586,338.

**Affecting Chester County****Tri-County Home Health Care & Services, Inc. d/b/a Tri-County Home Health Care and Services, Inc. - Chester County**

Establishment of a new Home Health Agency in Chester County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$8,100.

**Affecting Clarendon County****Georgetown Hospital Home Health, LLC d/b/a Amedisys Home Health Care – Clarendon County**

Establishment of a new Home Health Agency in Clarendon County at a total project cost of \$18,138.

**Affecting Florence County****McLeod Regional Medical Center of the Pee Dee, Inc. – Florence County**

Addition of 8 medical/surgical beds for a total of 461 medical/surgical beds and the addition of 8 NICU Intensive Care bassinets for a total of 20 NICU Intensive Care bassinets, at a total project cost of \$0.

**Affecting Greenville County****The Amendments Group, LLC d/b/a BrightStar Care Upstate – Greenville County**

Establishment of a new Home Health Agency in Greenville County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,000.

**Affecting Horry County****McLeod Loris Seacoast Hospital d/b/a McLeod Health Carolina Forest Campus – Horry County**

Construction of a new, off-Campus Emergency Department (ED) consisting of 12,995 sf located within an MOB currently under construction at a total project cost of \$9,575,662.77.



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### Affecting Jasper County

#### **SS&J Associates, LLC d/b/a BrightStar Care Lowcountry - Jasper County**

Establishment of a new Home Health Agency in Jasper County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,000.

### Affecting Lancaster County

#### **Amedisys SC, LLC d/b/a Neighbors Care Home Health Agency, an Amedisys Company – Lancaster County**

Establishment of a new Home Health Agency in Lancaster County at a total project cost of \$18,138.

#### **Compassionate Care, LLC d/b/a BrightStar Care of Rock Hill/Fort Mill – Lancaster County**

Establishment of a new Specialty Home Health Agency in Lancaster County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$1,500.

#### **Tri-County Home Health Care & Services, Inc. d/b/a Tri-County Home Health Care and Services, Inc. - Lancaster County**

Establishment of a new Home Health Agency in Lancaster County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$8,100.

### Affecting Laurens County

#### **Tri-County Home Health Care & Services, Inc. d/b/a Tri-County Home Health Care and Services, Inc. - Laurens County**

Establishment of a new Home Health Agency in Laurens County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$8,100.

### Affecting Pickens County

#### **AnMed Health d/b/a AnMed Health Clemson – Pickens County**

Construction for the purchase and installation of CT Scanner at a total project cost of \$921,553.

#### **Tri-County Home Health Care & Services, Inc. d/b/a Tri-County Home Health Care and Services, Inc. - Pickens County**

Establishment of a new Home Health Agency in Pickens County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$8,100.

### Affecting Richland County

#### **Palmetto Health d/b/a Palmetto Health Children's Hospital – Richland County**

Renovation to an existing facility for the addition of a new 13 bed Rehabilitation Inpatient Unit at a total project cost of \$1,950,035.

### Affecting Saluda County

#### **Amedisys SC, LLC d/b/a Amedisys Home Health of Lexington – Saluda County**

Establishment of a new Home Health Agency in Saluda County at a total Project cost of \$18,138.

**Affecting Spartanburg County****Amedisys Home Health, Inc. of South Carolina d/b/a Amedisys Home Health of Clinton – Spartanburg County**

Establishment of a new Home Health Agency in Spartanburg County at a total project cost of \$21,894.

**The Amendments Group, LLC d/b/a BrightStar Care Upstate – Spartanburg County**

Establishment of a new Home Health Agency in Spartanburg County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,000.

**Affecting York County****Amedisys SC, LLC d/b/a Neighbors Care Home Health Agency, an Amedisys Company – York County**

Establishment of a new Home Health Agency in York County at a total Project cost of \$21,894.

**Brent Brady, R.Ph d/b/a Rock Hill Treatment Specialist – York County**

Establishment of a new Narcotic Treatment Program (NTP) in York County at a total project cost of \$141,400.

**Compassionate Care, LLC d/b/a Brightstar Care of Rock Hill/Fort Mill – York County**

Establishment of a new Trident Medical Center, LLC d/b/a Trident Medical Center Specialty Home Health Agency in York County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,000.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL****NOTICE OF GENERAL PUBLIC INTEREST**

DHEC-Bureau of Land and Waste Management, File #20352  
BC Components (also known as Philips Components) Site

**NOTICE OF SETTLEMENT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD**

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Cost Recovery Settlement Agreement (CRSA) with General Electric Company (GE) and Philips Electronics North America Corporation (PENAC) with respect to the facility known as the BC Components Site at 6071 Saint Andrews Road in Columbia, in the County of Lexington, South Carolina (Site). The CRSA provides for a payment of \$500,000.00 for reimbursement of DHEC's past response costs through the date of the CRSA. The CRSA also releases GE and PENAC from further liability to DHEC for the matters addressed in the CRSA and confers protection upon GE and PENAC from claims of other potentially liable persons for additional contribution. The CRSA is subject to a thirty-day public comment period, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9622, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. Section 44-56-200 (as amended).

Notice of Settlement, Contribution Protection and Comment Period will be provided to potentially responsible parties. The proposed CRSA is available:

- (1) On-line at [www.scdhec.gov/Apps/Environment/PublicNotices](http://www.scdhec.gov/Apps/Environment/PublicNotices); or
- (2) By contacting Ms. Pat L. Vincent at 803-898-0840 or [vincenpl@dhec.sc.gov](mailto:vincenpl@dhec.sc.gov).

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Any comments to the CRSA must be submitted in writing, postmarked no later than June 27, 2016, and addressed to: Ms. Pat L. Vincent, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

UPON ENTRY OF THE CRSA BY DHEC, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST GE AND PENAC SEEKING CONTRIBUTION FOR MATTERS ENCOMPASSED BY THE CRSA SHALL BE FORECLOSED.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File # 50583  
Ascend/Solutia/Monsanto 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 Ascend Performance Materials Operations, LLC (Responsible Party). The VCC provides that the Settling Party, with DHEC's oversight, will fund and perform future response actions at the Ascend Performance Materials Operations, LLC facility located in Greenwood County, at 1515 Highway 246 South, Greenwood, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants (Site).

Future response actions addressed in the VCC includes, but may not be limited to, the Responsible Party funding and performing: a Remedial Investigation that will determine the source, nature, and extent of the release or threat of release of hazardous substances, pollutants, or contaminants and a Feasibility Study that will evaluate alternatives to clean-up the Site. Further, the Responsible Party will reimburse the Department's future costs of overseeing the work performed by the Responsible Party 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/Apps/Environment/PublicNotices](http://www.scdhec.gov/Apps/Environment/PublicNotices); or
- (2) By contacting David Wilkie at 803-898-0882 or [wilkietd@dhec.sc.gov](mailto:wilkietd@dhec.sc.gov).

Any comments to the proposed VCC must be submitted in writing, postmarked no later than June 27, 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 # 56777  
Browder Trust Property 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 Hipp Brothers Investments, LLC (Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform response actions at the Browder Trust Property located in Charleston County, at 1343/1345 Ashley River Road, Charleston, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants from the property (Site).

Future response actions addressed in the VCC include, but may not be limited to, the Responsible Party 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 Responsible Party will reimburse the Department's past costs of response of \$245.57 and the Department's future costs of overseeing the work performed by the Responsible Party 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/Apps/Environment/PublicNotices](http://www.scdhec.gov/Apps/Environment/PublicNotices); or
- (2) By contacting David Wilkie at 803-898-0882 or [wilkietd@dhec.sc.gov](mailto:wilkietd@dhec.sc.gov).

Any comments to the proposed VCC must be submitted in writing, postmarked no later than June 27, 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.

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### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File #404718  
Norfolk Southern Derailment – Liberty 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 Norfolk Southern Railway Company (Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the Norfolk Southern Derailment Liberty Site located in Pickens County, at Traber Station off of Old Norris Road, Liberty South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants from the derailment property (Site).

Future response actions addressed in the VCC include, but may not be limited to, the Responsible Party 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 Responsible Party will reimburse the Department's future costs of overseeing the work performed by the Responsible Party 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/Apps/Environment/PublicNotices](http://www.scdhec.gov/Apps/Environment/PublicNotices); or
- (2) By contacting David Wilkie at 803-898-0882 or [wilkietd@dhec.sc.gov](mailto:wilkietd@dhec.sc.gov).

Any comments to the proposed VCC must be submitted in writing, postmarked no later than June 27, 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 #418442  
Rental Uniform Service – Florence 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 RUSF, LLC (Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the Rental Uniform Service – Florence facility located in Florence County, at 906 South Church Street, Florence, 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, the Responsible Party funding and performing: complete investigation of potential sources, nature, and extent of contamination, including continuation of the current groundwater monitoring requirements and, if necessary, conduct a Feasibility Study (FS) to evaluate alternatives to clean-up the Site. Further, the Responsible Party will reimburse the Department's future costs of overseeing the work performed by the Responsible Party 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/Apps/Environment/PublicNotices](http://www.scdhec.gov/Apps/Environment/PublicNotices) or
- (2) By contacting David Wilkie at 803-898-0882 or [wilkietd@dhec.sc.gov](mailto:wilkietd@dhec.sc.gov).

Any comments to the proposed VCC must be submitted in writing, postmarked no later than June 27, 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

ERRATA

State Register Document No. 4553

May 27, 2016

The Department promulgated amendments of Regulation 61-78, Standards for Licensing Hospices, which took effect as final regulations in the State Register April 22, 2016, as Document No. 4553. This errata notice is published to make minor nonsubstantive corrections in the Regulation published on April 22, 2016, as follows:

**In Section 605.A.2, the period is replaced with a semicolon to read as follows:**

2. Care of persons specific to the physical and/or mental condition being cared for by the Hospice, such as, cancer, AIDS, dementia, or cognitive disability;

**In Section 605.A.7, the scrivener's error referencing Section 1803 is corrected to Section 2303 to read as follows:**

7. Fire response training within twenty-four (24) hours of their first day on duty in the Hospice Facility (See Section 2303);

**In Section 900.C.2, the semicolon is replaced with a period to read as follows:**

2. The person and/or his or her responsible party agree to accept Hospice services.

**In Section 1100.B.1.e, the period is replaced with a semicolon to read as follows:**

e. Respect and security for the patient's property and in a Hospice Facility for the patient to keep personal possessions as space permits, unless it interferes with the rights and safety of other patients;

**In Section 1100.B.1.h, the period is replaced with a semicolon to read as follows:**

h. Freedom from physical restraint through the use of medications unless they are prescribed by a doctor;

DEPARTMENT OF LABOR, LICENSING AND REGULATION  
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING  
OCCUPATIONAL SAFETY AND HEALTH STANDARDS

South Carolina Department of Labor, Licensing and Regulation (SC DLLR) does hereby give notice under Section 41-15-220, SC Code of Laws, 1976, as amended, that a public hearing will be held on July 7, 2016 at 10:00 AM in Conference Room 204, 110 Centerview Drive, Columbia, SC. At that time, interested persons will be given the opportunity to appear and present views on the occupational safety and health standards being considered for adoption.

The hearing is to determine if the Director of the SC DLLR will promulgate, revoke, or modify Rules and Regulations pursuant to Section 41-15-210, SC Code of Laws, 1976.

OSH Rules and Regulations being considered at the hearing are as follows:

In Subarticle 6 (General Industry and Public Marine Terminals):

Revisions to Sections: 1910.6-Incorporation by reference, 1910.106-Flammable liquids, 1910.133-Eye and face protection, 1910.1000-Air contaminants, 1910.1053-Respirable crystalline silica, 1917.3-Incorporation by reference, 1917.91-Eye and face protection, Appendix A and Appendix B to 1910.1053

In Subarticle 7 (Construction):

Revisions to Sections: 1926.6-Incorporation by reference, 1926.55-Gases, vapors, fumes, dusts, and mists, 1926.102-Eye and face protection, Appendix A to 1926.55, 1926.1153-Respirable crystalline silica, Appendix A and Appendix B to 1926.1153

Summary of changes: SC OSHA is amending its existing standards for occupational exposure to respirable crystalline silica. The amended standard establishes a new permissible exposure limit for respirable crystalline silica. SC OSHA is also issuing final rule to provide provisions to protect employees, such as requirements for exposure assessment, methods for controlling exposure, respiratory protection, medical surveillance, hazard communication, and recordkeeping, in both general industry and construction.

SC OSHA is also updating the references in OSHA's eye and face standards to reflect the most recent edition of the ANSI standards for eye and face protection by removing the oldest-referenced edition of the same ANSI standard and amending provisions of the construction eye and face protection standard to align with OSHA's general industry and maritime standards. Lastly, SC OSHA is reinstating the introductory text for flashpoint in the flammable liquids standard.

Any omissions or corrections to the occupational safety and health standards being considered for adoption published in the FEDERAL REGISTER prior to this hearing may be presented at this hearing. These revisions are necessary to comply with federal law and copies of them can be obtained or reviewed at the SC DLLR during normal business hours by contacting the OSHA office at 803-896-5811.

Persons desiring to speak at the hearing shall file with the Director of the SC DLLR a notice of intention to appear and the approximate amount of time required for her/his presentation on the particular matter no later than June 29, 2016. Any person who wishes to express her/his views, but is unable or does not desire to appear and testify at the hearing, should submit those views in writing on or before June 29, 2016.

Richele K. Taylor, Director  
South Carolina Department of Labor, Licensing and Regulation  
Post Office Box 11329  
Columbia, SC 29211-1329



## 18 DRAFTING NOTICES

### STATE BOARD OF EDUCATION

#### CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-67-240, 59-67-410, 59-67-470  
and 59-67-570

#### Notice of Drafting:

The Department of Education, Office of Transportation proposes to amend a regulation that addresses the school bus driver certification program.

Interested persons may submit their comments in writing to Richard Podmore, Director of Safety and Information, Office of Transportation, 1429 Senate St., Room 1104-A, Columbia, SC 29201 or by e-mail to [rpodmore@ed.sc.gov](mailto:rpodmore@ed.sc.gov) on or before 5:00 p.m. on June 27, 2016. To be considered, all comments must be received no later than 5:00 p.m. on June 27, 2016.

#### Synopsis:

South Carolina Code of Laws Section 59-67-470 (Bus drivers; selection; eligibility, training and certificates) establishes criteria for selecting and employing school bus drivers. It also authorizes the State Board of Education to provide a rigid training and testing program for prospective drivers and requires that successful candidates be issued school bus driver certificates. Regulation 43-80, Section N further details the training/testing processes and establishes different classifications of school bus driver certificates.

The change to the regulation is proposed to allow greater flexibility in certifying drivers to operate school buses. The addition of the Certificate A Non-Commercial sub-classification would enable districts to utilize small, 14-passenger state owned or leased buses in situations where a larger bus would not be practical or feasible. While drivers of these vehicles would still be required to complete the same classroom curriculum, behind-the-wheel training regimen, and annual in-service training as the holders of a Certificate A Commercial, they would not be required to hold a commercial driver's license (CDL). This change would also enable districts to more quickly train, certify, and employ drivers. Although Certificate A Non-Commercial holders would only be able to operate 14-passenger buses, they would be able to do so while working toward a CDL which would enable them to driver larger buses.

Changes will also be made to unify the titling of each certification category and their respective sub-classifications; to clarify the vehicles which may be operated under each certification category; to reflect that all certification categories have multiple sub-classifications; to renumber the regulation to reflect the addition of a sub-classification; and to remove a reference and timeline for changing from a single-category certification program to a multi-category certification program.

Clean up will be done on this regulation to renumber sections and subsections; change the terminology from pupil(s) and child(ren) to student(s), in addition to other minor changes, to bring this regulation in line with other agency regulations.

Legislative review is required.

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

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

**Notice of Drafting:**

The Department of Health and Environmental Control proposes to amend R.61-47, Shellfish. Interested persons are invited to submit their views and recommendations in writing to Charles Gorman, P.G., Division of Water Monitoring, Assessment and Protection, Bureau of Water, 2600 Bull Street, Columbia, South Carolina 29201, or by email at [gormancm@dhec.sc.gov](mailto:gormancm@dhec.sc.gov). To be considered, written comments must be received no later than 5:00 p.m. on June 27, 2016, the close of the drafting comment period.

**Synopsis:**

Regulation R.61-47, Shellfish, contains requirements for the safe and sanitary harvesting, storing, processing, handling and transportation of molluscan shellfish to protect the health of consumers of shellfish. For South Carolina shellfish to be acceptable for interstate and international commerce, the regulation must be consistent with the requirements of the National Shellfish Sanitation Program (NSSP), as determined by the US Food and Drug Administration (FDA).

The proposed amendments will provide specific criteria for the harvesting and handling of molluscan shellfish during months that require additional controls (*i.e.*, the warmer months of the year). The reason for adding these specific criteria to the regulation are to protect the health of consumers of shellfish. Molluscan shellfish harvested during times of the year with warmer water and air temperatures have been shown to have a higher risk of vibro bacteria related illnesses. Consequently, the harvesting and handling criteria for molluscan shellfish harvested during months that require additional controls will be more restrictive than the harvesting and handling criteria for molluscan shellfish harvested during months that do not require additional controls (*i.e.*, the cooler months of the year). The proposed additional controls are likely to include, but are not limited to, the harvest time of day and the time allowed from harvest to refrigeration.

The Department also may include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

Legislative review will be required.

**DEPARTMENT OF REVENUE**  
CHAPTER 117

Statutory Authority: 1976 Code Sections 4-37-30 and 12-4-320

**Notice of Drafting:**

The South Carolina Department of Revenue is considering adding SC Regulation 117-338 to provide guidance to counties that adopt the local sales and use tax under Chapter 37, Title 4, to finance the costs of highways, roads, streets, bridges, and other transportation-related projects. The Department of Revenue administers and collects the tax and is authorized to promulgate regulations for implementation of the tax.

In order to ensure that the proceeds of the tax are used solely for transportation-related projects, the proposed regulation would require that a county imposing the tax adopt a reasonable standard to be applied in determining eligible costs. The proposed regulation would approve the general concepts set forth in section 263A of the Internal Revenue Code as a standard for cost eligibility. In lieu of the standard set forth in IRC § 263A, a county would be able to request the use of an alternative standard for Department approval.

## **20 DRAFTING NOTICES**

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on June 27, 2016.

### **Synopsis:**

The South Carolina Department of Revenue is considering adding SC Regulation 117-338 to provide guidance to counties that adopt the local sales and use tax under Chapter 37, Title 4, to finance the costs of highways, roads, streets, bridges, and other transportation-related projects. The Department of Revenue administers and collects the tax and is authorized to promulgate regulations for implementation of the tax.

In order to ensure that the proceeds of the tax are used solely for transportation-related projects, the proposed regulation would require that a county imposing the tax adopt a reasonable standard to be applied in determining eligible costs. The proposed regulation would approve the general concepts set forth in section 263A of the Internal Revenue Code as a standard for cost eligibility. In lieu of the standard set forth in IRC § 263A, a county would be able to request the use of an alternative standard for Department approval.

Legislative review is required.

Document No. 4649  
**SECRETARY OF STATE**  
 CHAPTER 113

Statutory Authority: 1976 Code Sections 35-1-101 et seq.

113-1 through 113-26. Securities Division.

**Preamble:**

The Office of the Secretary of State proposes to repeal the Securities Division regulations found in Chapter 113, Article 1 of the South Carolina Code of Regulations (Regulations 113-1 through 113-26). Since the regulations were published in the *State Register*, the General Assembly passed the South Carolina Uniform Securities Act of 2005 (Section 35-1-101, et al) which became effective January 1, 2006. The Act established the Attorney General of South Carolina as Administrator and Securities Commissioner. The Act removed Securities from the Secretary of State’s Office and transferred those duties and responsibilities to the Attorney General’s Office, rendering the existing regulations inapplicable. The Notice of Drafting of this change was published in the *State Register* on March 25, 2016.

Section-by-Section Discussion

113-1 through 113-26. Repeal in its entirety.

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

The Office of the Secretary of State proposes to repeal the regulations that address Securities. Interested persons may submit comments to Ms. Melissa Dunlap, Deputy Secretary of State & Chief Legal Counsel, Office of the Secretary of State, 1205 Pendleton Street, Suite 525, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on June 27, 2016, the close of the comment period.

If requested by twenty-five or more persons, by an individual representing a group of twenty-five or more persons, by a governmental subdivision or agency, or by an association having at least twenty-five members, a public hearing will be held on July 12, 2016 at 10:00 a.m. at the Administrative Law Court, 2<sup>nd</sup> Floor hearing room, Edgar A. Brown Building, 1205 Pendleton Street, Columbia, South Carolina.

**Preliminary Fiscal Impact Statement:**

The Office of the Secretary of State anticipates that there will be no costs incurred by the State and its political subdivisions in complying with the proposed repeal of regulations.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: Chapter 113, Article 1 (Regulations 113-1 through 113-26), Securities Division.

Purpose: To repeal regulations promulgated by the Secretary of State for securities regulation that is no longer administered by the Office of the Secretary of State.

Legal Authority: 1976 Code Sections 35-1-101, et seq.

Plan for Implementation: Implementation of repeal of the securities regulations has already occurred in effect. The statute was changed in 2005 and since that time, these regulations have not been applicable.

## **22 PROPOSED REGULATIONS**

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

The Division of Securities has been moved to the Attorney General's Office. Therefore, it is in the best interest of both the Office of the Secretary of State and the Attorney General's Office that those regulations related to Securities found within the Secretary of State's regulations be repealed.

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

There are no costs anticipated in the deletion of the Secretary of State's regulations on securities. Repeal of these regulations will allow the Attorney General to promulgate his own regulations for securities as Securities Commissioner for the State of South Carolina.

### **UNCERTAINTIES OF ESTIMATES:**

None.

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

There are no known effects of the regulation on the environment and public health.

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

There are no known effects on the environment and public health if the regulation is not implemented.

### **Statement of Rationale:**

The deletion of regulations found in Chapter 113, Article 1 (Regulations 113-1 through 113-26) and which were initially printed in State Register Volume 17, Issue No. 5, Part 3, eff. May 28, 1993, are necessary to reflect significant changes to the South Carolina Code since the promulgation of these regulations. Since the publishing of these securities regulations by the Secretary of State, the South Carolina Code has been changed to make the Attorney General the Securities Commissioner and the Attorney General's Office the agency for securities registration and enforcement. The Office of the Secretary of State is no longer involved in securities regulation and enforcement in South Carolina and, therefore, regulations promulgated by the Secretary of State for this purpose should be removed from the South Carolina Code of 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. 4586  
**STATE BOARD OF EDUCATION**  
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-21-510, 59-21-580, 59-33-10 et seq.,  
 59-36-10 et seq., and 20 U.S.C. 1400 et seq.

43-243. Special Education, Education of Students with Disabilities

**Synopsis:**

State Board of Education Regulation (SBE) R.43-243 outlines the requirements for educational programs serving students with disabilities, as covered by the Individuals with Disabilities Education Improvement Act, 2004 (IDEA). The current regulation is largely duplicative of federal regulations, which are found in the Code of Federal Regulations, Title 34 Part 300. Amendments to SBE R.43-243 will (1) delete duplicative language and requirements that already exist in the Code of Federal Regulations governing educational programs for students with disabilities; (2) promulgate amendments to the current regulation; and (3) add and clarify state-specific language to the regulation that will allow districts and the Department to ensure compliance of educational programs for students with disabilities.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on July 24, 2015.

**Instructions:**

Entire regulation is to be replaced with the following text.

**Text:**

43-243. Special Education, Education of Students with Disabilities.

**I. Purpose**

The purpose of this regulation is to promulgate the state's requirements of educational programs for students with disabilities, as outlined by the Individuals with Disabilities Education Act, 2004 (IDEA). The South Carolina Department of Education (SCDE), as the state educational agency (SEA); all local educational agencies (LEAs); all state-operated programs (SOPs); and all other public programs providing special education and related services as outlined in the IDEA follow and comply with all statutory and regulatory requirements of the IDEA as outlined in 20 U.S.C. Section 1400 et seq. and the Code of Federal Regulations (C.F.R.), Chapter 34, Part 300.

In addition to the statutory and regulatory requirements to which the state adheres, this regulation further delineates state-specific requirements of the IDEA.

**II. Policies and Procedures**

Pursuant to the statutory requirements in Part B of the IDEA and regulatory requirements found in 34 C.F.R. Part 300, the state has in effect policies and procedures governing public educational programs for children with disabilities. These state policies and procedures are reviewed and approved by the SCDE. These state policies and procedures are broadly disseminated and are found in electronic format on the SCDE's website.

**III. Clarified Definitions**

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A. Child with a disability. For the purposes of the definitions of a child with a disability, SBE R.43-243.1 provides the definitions of a child with a disability as outlined at 34 CFR Part 300 Section 8.

B. Children with disabilities enrolled by their parents in private schools. Parentally placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools, homeschool programs, or facilities that meet the definition of elementary schools in 34 C.F.R. Section 300.13 or secondary schools in 34 C.F.R. Section 300.36; or in homeschool programs as defined by S.C. Code Ann. Sections 59-65-40, 45, and 47; other than children with disabilities covered under 34 C.F.R. Sections 300.145 through 300.147.

C. Free appropriate public education. A free appropriate public education must be available to all children residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in 34 C.F.R. Section 300.530(d). In South Carolina, this means that if any student turns age 21 after September 1 of the school year, the LEA must permit the student to enroll and complete the school year, and all applicable statutes and regulations apply. If a student turns age 21 on or prior to September 1, the LEA is not required to permit the student to enroll.

D. Intellectual disabilities. For the purposes of this regulation, all references in 34 C.F.R. Part 300 to mental disabilities or mental retardation are forthwith referred to as intellectual disabilities, as required by Pub. L. No. 111-256.

E. Residential treatment facilities. For the purposes of this regulation, residential placements defined at 34 C.F.R. Section 300.104 include residential treatment facilities authorized by the South Carolina Department of Health and Environmental Control and are governed by state statutes, regulations, and annually through state provisos in the State Appropriations Act. Requirements set forth in state statutes, regulations, and provisos delineate the responsibilities of the state and LEAs with regards to those children who are placed, or referred to such placements, by public agencies.

F. Transfer of rights at age of majority.

1. General Requirements. Beginning not later than one year before the child reaches the age of majority under state law, the child's Individualized Education Program (IEP) must include a statement that the child has been informed of his or her rights under Part B of the IDEA, if any, that will transfer to the child on reaching the age of majority under 34 C.F.R. Section 300.520. For the purposes of this definition, the age of majority in South Carolina is 18 years.

2. Exceptions to transfer of rights at age of majority.

a) Parental rights transfer to a child with a disability who reaches the age of majority under state law that applies to all children, except for a child with a disability who has been determined to be incompetent under the laws of South Carolina (S.C. Code Ann. Sections 62-5-501 et seq).

b) The state has established procedures for appointing the parent of a child with a disability, or, if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the child's eligibility under the IDEA when the child has not been determined to be incompetent under state law (S.C. Code Ann. Sections 62-5-501 et seq).

G. Transition services. Beginning not later than the first IEP to be in effect when the child turns 13 years, or younger if deemed appropriate by the IEP team, and updated annually thereafter, the IEP must include—

1. appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

2. transition services (including courses of study) needed to assist the child in reaching those goals that align with the child’s career goals and course of study in the child’s Individualized Graduation Plan (IGP) as outlined in S.C. Code Ann. Section 59-59-140.

**IV. Monitoring, Enforcement, and Program Information**

A. General Requirements. As outlined throughout the IDEA, the state is responsible for ensuring—

1. that the requirements of the IDEA and SBE R.43-243 are carried out; and

2. that each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency (but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior)—

a) is under the general supervision of the persons responsible for educational programs for children with disabilities in the state; and

b) meets the educational standards of the state.

B. State Monitoring. As outlined in 34 C.F.R. Sections 300.600 et seq., the state monitors the implementation of educational programs for students with disabilities, as provided by the IDEA.

C. Local Determinations. As outlined in 34 C.F.R. Sections 300.600, 300.603, 300.604, and 300.608, the state makes determinations annually about the performance of each LEA and SOP using the categories in 34 C.F.R. Section 300.603(b)(1). The state makes these determinations based on the totality of information the state has regarding the compliance and performance of each LEA and SOP with regards to its educational programs for students with disabilities covered under the IDEA.

D. Enforcement. The state retains all rights for enforcement of this regulation and of the state and federal statutory and regulatory requirements as outlined in the IDEA, in the Education Department General Administrative Regulations (EDGAR), and in 2 C.F.R. Section 200.300.

E. Fiscal Sanctions. If the state, represented by the SEA, finds that an LEA, special school, or other agency, herein referred to as an applicant, with the responsibility under state law for the provision of a free appropriate public education (FAPE) to students with disabilities is failing to comply with any requirement described under Part B of the IDEA, the applicable federal or state regulations, or state policies and procedures related to the requirements of the IDEA, the state may impose sanctions, including the reduction, withholding, or recovery of payments made relative to the IDEA grant administered by the state. In accordance with Part B of the IDEA and EDGAR 34 C.F.R. Parts 75 and 76, and 2 C.F.R. Section 200.300, the state shall provide reasonable notice and an opportunity for a hearing prior to taking any final action regarding the reduction, withholding, or recovery of payments to the applicant.

1. Hearing Issues. The state shall provide the applicant with notification of the right to a hearing and the procedures for a hearing if the state determines

a) an applicant is not eligible for assistance under Part B of the IDEA;

b) an applicant, for three or more consecutive years, needs intervention or substantial intervention in implementing the requirements of Part B of the IDEA;

c) an applicant is unable or unwilling to consolidate with other applicants or agencies in accordance with the IDEA;



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d) an applicant failed to submit an accurate and unduplicated count of the number of students with disabilities receiving special education and related services, or in the case of children enrolled by their parents in private or homeschool programs, failed to accurately report the count of students eligible to receive special education and related services;

e) an applicant is not meeting the requirements of Part B of the IDEA and the provision of an applicable FAPE to students with disabilities and the applicant has not, or the state has reason to believe the applicant cannot, correct the problem within one year; or

f) an applicant is not meeting any of the other federal or state requirements relative to Part B of the IDEA that allow the reduction, withholding, or recovery of funds.

2. Hearing Appeals Panel. When an applicant requests a hearing relative to these matters, in writing, the State Superintendent of Education (Superintendent) shall select a three-member hearing panel to conduct the proceeding. The hearing panel shall consist of at least two of the SEA's deputy superintendents, or their designees, and one additional individual designated by the superintendent.

### 3. Hearing Procedures.

a) An applicant shall request a hearing by notifying the Superintendent by certified mail of its decision to appeal a decision as set forth in these procedures.

b) The applicant shall include the nature of the request for the hearing, including the reasons for any disagreement with the determinations by the state, and the facts on which the request for the hearing is based.

c) The applicant shall request a hearing within thirty calendar days of the date of the state's notification of the intent to impose the specified sanction. For purposes of these procedures, the date of the notification by the state is the date the notice is received by the applicant.

d) The hearing shall be scheduled before a hearing panel within thirty calendar days from the receipt of the request.

e) The applicant shall receive written notice at least ten days prior to the hearing date. The notice shall include the date, location, and time of the hearing.

f) The applicant and the state may present evidence in writing and through witnesses and may be represented by counsel at the hearing. The parties shall exchange the names of proposed witnesses no later than five days prior to the hearing. The parties shall have six copies available of written materials that will be used as evidence during the hearing.

g) The hearing panel may determine the length and order of the presentations by the parties and determine the course of the proceedings. The hearing panel shall take all steps necessary to conduct a fair and impartial proceeding, avoid delays, maintain order, and comply with the additional procedures set forth in the SEA *Policies and Procedures for Programs for Students with Disabilities*.

h) The hearing panel shall make a formal recommendation to the Superintendent within five calendar days following the hearing.

i) If the applicant or its authorized representative fails to appear at the hearing, the appeal shall be considered closed and the hearing process terminated.

j) If the state determines that its proposed action is contrary to federal or state statutes, regulations, or applicable policies and procedures related to the requirements of the IDEA, the state shall review its proposal and determine what, if any, alternative action is warranted.

k) The Superintendent shall issue a written decision within ten days of the date of the conclusion of the hearing. The written decision shall include the findings of fact and reasons for the decision.

l) The Superintendent's decision is final unless the applicant disagrees with the decision and files an appeal of the decision with a court of competent jurisdiction. If the state does not receive notice of an intent to appeal the decision within thirty calendar days of the issuance of the written decision, the state shall implement the proposed action in whole or in part until the state is satisfied that the applicant is complying with the applicable federal and state requirements.

m) The SEA shall keep a record of the proceedings. Any party, at its expense, may obtain a copy of the record of the proceedings.

4. Decision. The Superintendent shall issue a written decision within ten days of the date of the conclusion of the hearing by transmitting the written decision to the applicant or other representative authorized by the applicant.

5. Public attention. Any applicant that receives notice that the state is proposing to take or is taking an enforcement action pursuant to this section must, by means of public notice, take such actions as may be necessary to notify the public of the pendency of the action, including, at a minimum, posting the notice on the applicant's web site and distributing notice of the proposed act to the media and through public agencies.

F. State Advisory Panel. The state has established and maintains an advisory panel for the purposes of providing policy guidance with respect to special education and related services for children with disabilities in the state. In addition to the state advisory panel requirements at 34 C.F.R. Section 300.167, the state has expanded the State Advisory Panel to meet the requirements of S.C. Code Ann. Section 59-36-30.

V. The South Carolina State Board of Education authorizes the South Carolina Department of Education to develop and amend special education policies and procedures as necessary to meet U.S. Department of Education approval.

**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 SBE R.43-243.

**Statement of Rationale:**

State Board of Education R.43-243 outlines the requirements for educational programs serving students with disabilities, as covered by the Individuals with Disabilities Education Improvement Act, 2004 (IDEA). The current regulation is largely duplicative of federal regulations, which are found in the Code of Federal Regulations, Title 34 Part 300. Amendments to SBE R.43-243 will (1) delete duplicative language and requirements that already exist in the Code of Federal Regulations governing educational programs for students with disabilities; (2) promulgate amendments to the current regulation; and (3) add and clarify state-specific language to the regulation that will allow districts and the Department to ensure compliance of educational programs for students with disabilities.

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Document No. 4585

### OFFICE OF THE GOVERNOR

#### CHAPTER 58

Statutory Authority: 1976 Code Sections 25-1-420 et seq.

#### 58-101. State Emergency Preparedness Standards

##### **Synopsis:**

The proposed amendments to R.58-101 will support the goal of updating the current regulation to comply with current standards of practice. Furthermore, the proposed amendments will simplify and clarify the current regulation to help define the roles and responsibilities in emergency management at the state level.

A Notice of Drafting was published in the *State Register* on August 28, 2015.

##### **Instructions:**

Replace Regulation 58-101 as shown below.

##### **Text:**

#### 58-101. State Emergency Management Standards.

##### A. General

1. There shall be established a South Carolina emergency management organization, which shall consist of a state element and forty-six county elements. The state element of this organization shall be comprised of all officials, departments, and employees of state government and may include persons or groups who, by agreement or operation of law, may be charged with duties incident to the protection of life and property within the State during an emergency. The forty-six county elements shall be organized and maintained pursuant to the requirements of Regulation 58-1.

2. There shall be a South Carolina Emergency Plan consisting of a South Carolina Emergency Operations Plan (SCEOP) and forty-six County Emergency Operations Plans. The SCEOP shall outline the emergency roles and responsibilities of the State Emergency Response Team (SERT) and county organizations. The SCEOP shall be developed and maintained pursuant to the requirements of this regulation and will be used for any incident that occurs. The forty-six County Emergency Operations Plans shall be developed and maintained pursuant to the requirements of Regulation 58-1.

a. State government shall be responsible for providing resources to support county government emergency operations and for coordinating support to county government from other sources, including the federal government, unaffected counties of the State, and adjacent states. This assistance may consist of, but not limited to, liaisons, representatives or Incident Management Teams (IMT) that will assist and/or coordinate support using National Incident Management System (NIMS) and Incident Command System (ICS) principals in conjunction with county or local representatives.

b. State government shall assume direction and control of area or county government emergency operations when requested by proper county government authority; or when county government authority has broken down or is nonexistent; or when the nature and magnitude of an emergency is such that effective response and recovery action is beyond the capability of county government, or when, in the event of a war emergency or declared natural or man-made emergency, state direction is required for implementation of a state or national plan in accordance with the Emergency Powers Act (South Carolina Code of Laws, Title 25 – Chapter 1. Article 4; Section 25-1-420 thru 460).

c. Nothing in Item A(2)(b) above is intended to transfer, or otherwise remove from county government, the responsibility for the protection of life and property within their respective jurisdictions. The purpose of these items is to provide for an effective level of direction, control, or coordination in the event a major emergency impacts the State. County government shall continue to be responsible for the conduct of operations within their

jurisdiction during all emergency situations; however, under conditions identified in Item A(2)(b), state government shall exercise an appropriate degree of direction, control, or coordination at the discretion of the Governor.

d. Unless otherwise provided for in this Regulation or Regulation 58-1, county government shall be responsible for initial response to, and the conduct of, operations relating to emergency conditions impacting their respective area of jurisdiction.

e. County government shall be responsible for ensuring that all appropriate local resources, including those of municipalities, are being utilized to support the conduct of emergency operations prior to requesting outside assistance from state government. This requirement is deferred when state or inter-jurisdictional plans or procedures provide for an automatic response by state government.

3. State government's chain of communications, coordination, direction, and control during an emergency shall consist of the Governor, the Governor's Office, the South Carolina Emergency Management Division (SCEMD), and Emergency Support Functions (ESF).

4. County government's chain of communications, coordination, direction and control during an emergency shall be consistent with Regulation 58-1.

5. When required during an emergency, state direction, control, communication and coordination between state and county government shall be channeled through SCEMD and the County Emergency Management Agency, respectively.

**B. South Carolina Emergency Operations Plan - Development Requirements**

1. The South Carolina Emergency Operations Plan (SCEOP) shall consist of the following elements:

- a. Basic plan, hazard vulnerability analysis, concept of operations and annexes;
- b. ESF annexes and implementing procedures of tasks and responsibilities assigned by the SCEOP. Each functional annex will be assigned a primary organization responsible for ensuring completion of their respective annex. Supporting organizations will also be assigned and provide required support to the primary organization;
- c. Major hazard contingency plans. Such plans shall address major hazards addressed in the hazards vulnerability analysis.

2. Responsibilities for the development of plans, annexes and implementing procedures are as follows:

- a. The SCEOP shall be developed and coordinated with applicable state agencies by SCEMD;
- b. Major hazard contingency plans shall be developed and coordinated with local governments by SCEMD, with the exception of those plans that are the responsibility of other state agencies;
- c. Individual ESF annexes and implementing procedures shall be developed and coordinated with applicable state agencies for all tasks and responsibilities assigned that agency by the SCEOP;
- d. County emergency operation plans, annexes and implementing procedures will be developed by local government in accordance with Regulation 58-1, and will follow the precepts, practices and procedures as defined in NIMS.

**C. South Carolina Emergency Operations Plan – Review and Approval**

1. The Office of the Governor shall be responsible for approval of the SCEOP. SCEMD shall submit the SCEOP to the Governor for review and approval by February 1 of the first year of each new gubernatorial term.

2. Each plan, annex, and standard operating procedure developed pursuant to this Section shall be submitted by the appropriate state agency and local government to SCEMD for review and concurrence.

3. SCEMD will provide to each submitting agency the results of the review.

4. Each plan, annex, or standard operating procedure developed pursuant to this Item shall be reviewed and revised as required but not to exceed a period of more than 3 years. State agencies and local governments shall submit appropriate revisions and certifications for review and concurrence. SCEMD shall establish a schedule for such submissions.

**D. State Agency Emergency Management Responsibilities**

1. The duties of the Office of the Governor shall include, but are not limited to:

- a. Developing of plans and procedures to support the Governor in the exercising of executive responsibilities and authority during an emergency;
- b. Providing executive coordination and communication with SCEMD in the development of the SCEOP, approval of the SCEOP, and implementation of such SCEOP during an emergency;

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c. Serving as the official point of contact within state government for public information during an emergency. Specific responsibilities may be assigned to state agencies, pursuant to the SCEOP, or at the discretion of the Governor's Press Secretary;

d. Serving as the coordinating agency for public information in accordance with the provisions of Item D (3) below;

e. Acting as final administrative authority for declaratory rulings associated with the implementation of Regulations 58-1 and 58-101.

2. SCEMD shall be responsible for functions that include, but are not limited to:

a. Development, coordination, maintenance, review and revision of the SCEOP. Such reviews shall be conducted with the support and direct participation of agencies and organizations identified in the SCEOP to ensure that organizational assignments are appropriate and consistent with the capabilities of those agencies or organizations;

b. Provide program coordination and technical and staff assistance as requested to support the implementation of this Regulation and Regulation 58-1;

c. Development of program guidance to support the implementation of this Regulation and Regulation 58-1;

d. Development and maintenance of state plans as may be required;

e. Conduct periodic review and evaluation, not to exceed a period of more than 3 years, of county governments' accomplishments, deficiencies, and proposed activities as they relate to this Regulation and Regulation 58-1, and maintain copies of such evaluations in accordance with the state retention policy;

f. Review and approval of County Emergency Operations Plans submitted pursuant to the requirements of Regulation 58-1;

g. Review and concurrence in elements of the SCEOP;

h. Serves as the designated coordinating point between the State, state agencies, and county government during an emergency;

i. Coordination to support implementation of the Stafford Act.

3. State agencies designated as ESF Lead Agencies in the SCEOP shall be responsible for functions which include, but are not limited to:

a. Designation of an agency Emergency Management Coordinator(s), who shall be responsible for agency coordination and implementation of planning and administrative requirements as outlined and in support of the SCEOP;

b. Coordination of ESF response operations, through the designated Emergency Management Coordinator(s), in accordance with plans and procedures developed in support of the SCEOP and the ESF operations;

c. Designation of adequate SEOC representation to provide 24-hour coverage for periods of operations. The Emergency Management Coordinator(s) may also be designated as a SEOC representative;

d. Responsible for the review, revision and development of designated ESF plans and procedures.

4. State agencies designated as ESF Support Agencies in the SCEOP shall be responsible for functions which include, but are not limited to:

a. Designation of an agency Emergency Management Coordinator(s), who shall be responsible for agency coordination and implementation of planning and administrative requirements as outlined and in support of the SCEOP;

b. Coordination of ESF response operations, through the designated Emergency Management Coordinator(s), in accordance with plans and procedures developed in support of the SCEOP and the ESF operations;

c. Designation of adequate SEOC representation to provide 24-hour coverage for periods of operations. The Emergency Management Coordinator(s) may also be designated as a SEOC;

d. Support and participate in the review, revision and development of designated ESF plans and procedures.

### E. Facilities and Equipment

1. There shall be established a central state warning point from which state government can receive initial notification of (non-law enforcement) emergency occurrences or conditions within the State, and can alert key officials and agencies within state government for response. This facility shall be operated twenty-four (24) hours a day.

2. There shall be established, occupied and maintained by SCEMD a SEOC from which state government can direct, control, and coordinate emergency operations. This facility, upon activation, shall be staffed by those state agency SEOC representatives designated by the SCEOP, or by SCEMD as appropriate. Emergency response activities of all state agencies shall be coordinated with their respective SEOC representatives when the SEOC is activated.

3. There shall be established within the SEOC communications capabilities necessary to support emergency operations.

#### F. State Emergency Management Training and Exercises

1. SCEMD shall establish and manage a training and exercise program for state, county and municipal emergency response personnel. To support this, SCEMD shall annually publish a multi-year training and exercise plan. The multi-year training and exercise plan may be periodically amended during the program year. Training and exercises listed in this plan shall be in addition to that routinely provided or required within a state agency.

2. SCEMD shall establish and conduct annually a major exercise addressing potential hazards affecting the State. Such an exercise shall require participation of the majority of ESFs identified in the SCEOP, shall be conducted in conjunction with an exercise involving 1 or more counties, and shall include the actual deployment of personnel and resources under simulated conditions. An agency may request certification from SCEMD for participation in an actual event as a substitution for this requirements.

3. Members of the SEOC and the state agency Emergency Management Coordinators shall participate in at least 2 exercise events per year. Exercise events meeting this requirement shall be from the list of exercise events published by SCEMD in the multi-year training and exercise plan. An agency may request certification from SCEMD for a specific training activity, exercise or actual event not contained on the published multi-year training and exercise plan.

4. State agency personnel shall participate in preparedness training and exercise activities in a manner consistent with responsibilities assigned in the SCEOP.

5. SCEMD shall coordinate the provision of staff and technical assistance to support the implementation of this Item.

#### G. Emergency Management Public Awareness

1. State agencies assigned public information responsibilities under the SCEOP shall assist in the development and coordination of the conduct of public awareness activities within the State.

2. County government shall conduct ongoing educational programs and participate in state special emphasis programs pursuant to Regulation 58-1.

3. SCEMD Public Information personnel shall coordinate the provision of resources to support county government public awareness activities.

4. State special emphasis programs shall be conducted annually in coordination with appropriate county governments. Such programs shall address potential hazards affecting the State.

#### **Fiscal Impact Statement:**

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

#### **Statement of Rationale:**

The determination to amend this regulation was based on numerous requests received by the South Carolina Emergency Management Division. The current regulation does not reflect the current standards of practice so it is reasonable and necessary to update the language to reflect current practices. 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.

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Document No. 4567

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: 1976 Code Section 44-1-140

61-49. Crabmeat

#### **Synopsis:**

Regulation 61-49, *Crabmeat*, prescribes requirements for processors of crab meat and is intended to protect the health of consumers of crab meat. This regulation was last updated in 1976 and still refers to the implementing state agency as the South Carolina State Board of Health. Currently, there are no crab meat processing facilities operating under this regulation, and no facility has operated under this regulation since 2001. This regulation has been superseded by more up-to-date state and federal laws and regulations that address the storing, processing, and handling of seafood, including crab. As such, the Department has repealed Regulation 61-49 because it has become obsolete and is no longer needed.

A Notice of Drafting for this proposed repeal of Regulation 61-49 was published in the *State Register* on February 27, 2015.

**Instructions:** Repeal Regulation 61-49 in its entirety.

#### **Text:**

**Repeal 61-49 to read:**

**61-49. [Repealed]**

#### **Fiscal Impact Statement:**

There are no anticipated new costs associated with the repeal of this regulation to the State or its political subdivisions.

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

The Statement of Need and Reasonableness was determined by staff analysis pursuant to 1976 S.C. Code Section 1-23-115(C) (1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Repeal of Regulation 61-49, *Crabmeat*.

Purpose: Regulation 61-49, *Crabmeat*, prescribes requirements for processors of crab meat and is intended to protect the health of consumers of crab meat. This regulation was last updated in 1976 and still refers to the implementing state agency as the South Carolina State Board of Health. Currently, there are no crab meat processing facilities operating under this regulation, and no facility has operated under this regulation since 2001. This regulation is obsolete and has been superseded by more up-to-date state and federal laws and regulations that address the storing, processing, and handling of seafood, including crab.

Legal Authority: 1976 Code Section 44-1-140.

Plan for Implementation: None. Upon approval of the General Assembly and publication in the S.C. *State Register* this regulation is deemed repealed and will be noted as repealed in the S.C. Code of Regulations.

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

In the interest of good government and efficiency, the Department has repealed Regulation 61-49, *Crabmeat*.

The regulation is obsolete and has been superseded by more up-to-date state and federal laws and regulations for the storage, processing and handling of crab to protect human health. The South Carolina Code of Laws, Section 39-25-180(K) and (L) incorporates by reference the federal Food, Drug and Cosmetic Act and associated federal regulation that address the storage, processing, and handling of fish and fishery products (Code of Federal Registers, Fish and Fishery Products, Title 21 Section 123; 21 CFR 123). The definition of “Fish” in federal regulation 21 CFR 123 includes crustaceans (crabs). A crab processor would be required to have and follow a Hazard Analysis and Critical Control Point (HACCP) Plan as defined in 21 CFR 123. A HACCP plan would contain process controls for the storage, processing and handling of food products in accordance with the latest FDA safety guidelines.

**DETERMINATION OF COSTS AND BENEFITS:**

The Department anticipates no fiscal or economic impact on the State or its political subdivisions and the regulated community by the repeal of this regulation.

**Internal Costs:** Implementation of the repeal will not require additional resources. There is no anticipated additional cost by the Department or State government.

**External Costs:** There are no anticipated additional external costs for repealing this regulation.

**External Benefits:** Regulation 61-49 should be repealed because it has been superseded by more up-to-date state and federal laws and regulations that address the storing, processing, and handling of seafood, including crab. The repeal removes superfluous regulations from the books.

**UNCERTAINTIES OF ESTIMATES:**

None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

There are no anticipated negative environmental or public health effects resulting from this repeal.

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

There are no anticipated negative effects on the environment and public health by the repeal of this regulation.

**Statement of Rationale:**

The Department has determined that Regulation 61-49 is obsolete and no longer needed. Currently, there are no crab meat processing facilities operating under this regulation, and no facility has operated under this regulation since 2001. This regulation is obsolete and has been superseded by more up-to-date state and federal regulations that address the storing, processing, and handling of seafood, including crab.



## 34 FINAL REGULATIONS

Document No. 4594

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: 1976 Code Sections 1-23-10(4) and 44-1-140

61-57. Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems

#### **Synopsis:**

In the interest of good government and efficiency, the Department repeals Regulation 61-57. 1976 S.C. Code Section 44-55-822, which now governs the approval process for onsite wastewater systems in subdivisions, and Regulation 61-56, Onsite Wastewater Systems, address any major requirements for subdivision onsite wastewater sewage treatment/disposal systems.

A Notice of Drafting for the repeal of Regulation 61-57 was published in the State Register on June 26, 2015.

See the Statements of Need and Reasonableness and Rationale herein.

**Instructions:** Repeal Regulation 61-57 in its entirety in Chapter 61 of the S.C. Code of Regulations.

#### **Text:**

**Repeal 61-57 to read:**

**61-57. [Repealed]**

#### **Fiscal Impact Statement:**

There are no anticipated new costs associated with the implementation of this regulation repeal to the State, or its political subdivisions.

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

The Statement of Need and Reasonableness was determined by staff analysis pursuant to 1976 S.C. Code Section 1-23-115(C) (1)-(3) and (9)-(11):

**DESCRIPTION OF REGULATION:** Repeal of R.61-57, Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems.

**Purpose:** In the interest of good government and efficiency, the Department repeals R.61-57. 1976 S.C. Code Section 44-55-822, which now governs the approval process for onsite wastewater systems in subdivisions, and Regulation 61-56, Onsite Wastewater Systems, address any major requirements for subdivision onsite wastewater sewage treatment/disposal systems.

**Legal Authority:** 1976 S.C. Code Sections 1-23-10(4) and 44-1-140.

**Plan for Implementation:** None. Upon approval of the South Carolina General Assembly and publication as a final regulation repeal in the State Register, this regulation is repealed. Notice of the repeal will also appear on the Department's website. R.61-57 will be repealed in Chapter 61 of the Code of Regulations of the South Carolina Code of Laws.

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

In the interest of good government and efficiency, the Department repeals R.61-57, Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems.

R.61-57 was last amended effective April 23, 2004. 1976 S.C. Code Section 44-55-822, which now governs the approval process for onsite wastewater systems in subdivisions, and R.61-56, Onsite Wastewater Systems, address any major requirements for subdivision onsite wastewater sewage treatment/disposal systems.

DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated fiscal or economic impact on the State, its political subdivisions and/or the regulated community by the repeal of this regulation.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There is no anticipated negative environmental or public health effects resulting from this repeal.

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

There is no anticipated negative effect on the environment and/or public health by the repeal of this regulation.

**Statement of Rationale:**

In the interest of efficient and good government, R.61-57, Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems, is no longer required. With attention to public health and the environment, there exists under current state statutes and other regulations, sufficient authority to address and control any major environmental and/or public health issues covered by this regulation for repeal.

Document No. 4646

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

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-79. Hazardous Waste Management Regulations

**Synopsis:**

These amendments of R.61-79 adopt four final rules published in the Federal Register by the United States Environmental Protection Agency (EPA). These amendments will: establish new requirements that will authorize the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste from a generator's site to the site of the receipt and disposition of the hazardous waste as well as establish a national electronic manifest system; allow the Department to better track exports of Cathode Ray Tubes for reuse and recycling to ensure safe management of these materials; revise several recycling-related provisions associated with the definition of solid waste used to determine hazardous waste regulation under Subtitle C of the Resource Conservation and Recovery Act; and implement vacatur orders by the United States Court of

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Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014, which resulted in the previously authorized comparable fuels and gasification exclusion no longer being in effect. Adoption of these amendments is required to comply with Federal law and will bring R.61-79 into conformity with the Federal regulation. Legislative review of these amendments will not be required pursuant to S.C. Code Section 1-23-120(H). These regulations are also exempt from the requirements of a fiscal impact statement and assessment report pursuant to Sections 1-23-110(A)(3)(e) and (f).

See the Section-by-Section Discussion of Amendments below and the Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting was published in the *State Register* on November 27, 2015.

### Section-by-Section Discussion of Amendments:

#### **1. The Department has amended R.61-79 to adopt the “Hazardous Waste Electronic Manifest System; Final Rule,” published on February 7, 2014, at 79 FR 7518-7563:**

260.10 Definitions. The new definitions: “Electronic manifest (or e-Manifest);” “Electronic Manifest System (or e-Manifest System);” and “User of the electronic manifest system” have been added in alphabetical order.

260.10 Definitions. The definition of “Manifest” has been modified by adding language referencing the electronic manifest and making other stylistic changes to bring this paragraph into conformity with the Federal regulation.

262.20(a)(3). New item (3) has been added to adopt language that describes how a person required to prepare a manifest may use an electronic manifest instead of using the Environmental Protection Agency (EPA) manifest form, provided that the person complies with the requirements for use of electronic manifests and for the reporting of electronic documents to the EPA.

262.24. New section (24) has been added to adopt language that describes how electronic manifest documents obtained from the EPA’s national e-Manifest system and completed in accordance with the regulation are the legal equivalent of the paper manifest forms (EPA Forms 8700-22 and 8700-22A). This section also describes the restriction on use of electronic manifests, the requirement for one printed copy, special procedures when an electronic manifest is unavailable, special procedures for electronic signature methods undergoing tests, and an imposition of a user fee.

262.25. New section (25) has been added to adopt language that describes how electronic signature methods for the e-Manifest system are a legally valid and enforceable signature under applicable EPA and other Federal requirements pertaining to electronic signatures and is a method that is designed and implemented in a manner that the EPA considers to be as cost-effective and practical as possible for users of the manifest.

263.20(a)(3). This sentence has been modified to change the phrase “shall not apply until September 5, 2006” to “had an effective date of September 5, 2006.” The second sentence has been modified to change the phrase “shall be applicable until September 5, 2006” to “were applicable until September 5, 2006.”

263.20(a)(4). New item (4) has been added to adopt language that describes how electronic manifest documents obtained from the EPA’s national e-Manifest system and completed in accordance with the regulation are the legal equivalent of the paper manifest forms (EPA Forms 8700-22 and 8700-22A) for participating transporters. Any requirements for a handwritten signature are satisfied by obtaining a valid and enforceable electronic signature within the meaning of 40 CFR 262.25(a). Any requirement to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person by submission to the system. Any requirement for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to

the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the Hazardous Materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR Section 177.817, a hazardous waste transporter must carry one printed copy of the electronic manifest on the transport vehicle. Any requirement for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an electronic manifest in the transporter's account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No transporter may be held liable for the inability to produce an electronic manifest for inspection if that transporter can demonstrate that the inability is exclusively due to a technical difficulty with the EPA system for which the transporter bears no responsibility.

263.20(a)(5). New item (5) has been added to adopt language that a transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

263.20(a)(6). New item (6) has been added to adopt language that describes special procedures when an electronic manifest is not available.

263.20(a)(7). New item (7) has been added to adopt language that describes special procedures for electronic signature methods undergoing tests.

263.20(a)(8). New item (8) has been added to adopt language that describes an imposition of a user fee for electronic manifest use.

263.25. New section (25) has been added to adopt language that states that electronic manifest signatures shall meet the criteria described in Section 262.25(a).

264.71(a)(2)(iv). This sentence has been modified to add "(Page 3)" between the words "copy" and "of."

264.71(a)(2)(v). Subitem (v) has been modified to adopt language that within thirty days of delivery, a facility must send the top copy (Page 1) of the Manifest to the e-Manifest system for the purposes of data entry and processing. Instead of mailing this paper copy to the EPA, an image file or a data string file and image file may be transmitted to the EPA if they are supported by electronic reporting requirements and the electronic manifest system.

264.71(a)(2)(vi). New subitem (vi) has been added to adopt language that a facility must retain a copy of each manifest for at least three (3) years from the date of delivery.

264.71(f). New subsection (f) has been added to adopt language that describes how electronic manifest documents obtained in accordance with Section 262.20(a)(3) and completed in accordance with the regulation are the legal equivalent of the paper manifest forms bearing handwritten signatures, and satisfy any requirement to obtain, complete, sign, provide, use, or retain a manifest. This section also includes a discussion of electronic signature equivalency, electronic transmittal including accompanying a hazardous waste shipment, and availability to an EPA or state inspector. No owner or operator will be held liable for the inability to produce an electronic manifest for inspection if they can demonstrate that the inability is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

264.71 (g). New subsection (g) has been added to adopt language that an owner or operator may participate in the electronic manifest system either by accessing the system from either the owner's or operator's electronic equipment or that brought on site by the transporter who delivers the waste shipment.

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264.71(h). New subsection (h) has been added to adopt language that describes special procedures applicable to replacement manifests. This section discusses the signatory procedures, the number of copies to the transporter, the time table to send the copies and to whom, and the retention schedule for the paper replacement manifest.

264.71(i). New subsection (i) has been added to adopt language that describes special procedures applicable to electronic signature methods undergoing tests.

264.71(j). New subsection (j) has been added to adopt language that describes the imposition of a user fee for electronic manifest use. The current schedule of electronic manifest user fees shall be published as an appendix to Part 262 of the Chapter.

264.71(k). New subsection (k) has been added to adopt language specifying that electronic manifest signatures shall meet the criteria described in 40 CFR 262.25(a).

265.71(a)(2)(iv). This sentence has been modified to add “(Page 3)” between the words “copy” and “of.”

265.71(a)(2)(v). This section has been modified by removing the existing language and adding that within thirty days of delivery, a facility must send the top copy (Page 1) of the Manifest to the e-Manifest system for the purposes of data entry and processing. Instead of mailing this paper copy to the EPA, an image file or a data string file and image file may be transmitted to EPA if they are supported by electronic reporting requirements and the electronic manifest system.

265.71(a)(2)(vi). New subitem (vi) has been added to adopt language that a facility must retain a copy of each manifest for at least three years from the date of delivery.

265.71(f). New subsection (f) has been added to adopt language that describes how electronic manifest documents obtained in accordance with Section 262.20(a)(3) and completed in accordance with the regulation are the legal equivalent of the paper manifest forms bearing handwritten signatures, and satisfy any requirement to obtain, complete, sign, provide, use or retain a manifest. This section also includes a discussion of electronic signature equivalency, electronic transmittal including accompanying a hazardous waste shipment, availability to an EPA or state inspector. No owner or operator will be held liable for the inability to produce an electronic manifest for inspection if they can demonstrate that the inability is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

265.71(g). New subsection (g) has been added to adopt language that an owner or operator may participate in the electronic manifest system either by accessing the system from either the owner’s or operator’s electronic equipment or that brought on site by the transporter who delivers the waste shipment.

265.71(h). New subsection (h) has been added to adopt language that describes special procedures applicable to replacement manifests. This section discusses the signatory procedures, the number of copies to the transporter, the time table to send the copies and to whom, and the retention schedule for the paper replacement manifest.

265.71(i). New subsection (i) has been added to adopt language that describes special procedures applicable to electronic signature methods undergoing tests.

265.71(j). New subsection (j) has been added to adopt language that describes the imposition of a user fee for electronic manifest use. The current schedule of electronic manifest user fees shall be published as an appendix to Part 262 of the Chapter.

265.71(k)(1). New subsection (k) and item (1) have been added to adopt language that electronic manifest signatures shall meet the criteria described in 40 CFR 262.25(a).

**2. The Department has amended R.61-79 to adopt the “Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule,” published in the Federal Register on June 26, 2014 at 79 FR 36220-36231.**

260.10 Definitions. The new definition: “CRT exporter,” has been added in alphabetical order.

261.39(a)(5)(i)(F). Sentence has been modified to read, “The name and address of the recycler or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the names of any alternate recyclers.”

261.39(a)(5)(x). New subitem (x) has been added to adopt language that describes how CRT exporters must file an annual report with the EPA no later than March 1 of each year, what must be supplied in the report, and the language to be used in a certification signed by the CRT exporter.

261.39(a)(5)(xi). New subitem (xi) has been added to adopt language that describes how annual reports must be submitted to the Office of Enforcement and Compliance Assurance as specified previously in 261.39(a)(5)(ii) and specify that exporters must keep copies of each annual report for a period of at least three (3) years from the due date of the report.

261.41(a). Subsection (a) has been modified to adopt additional language that exporters of used, intact CRTs sent for reuse must send a notification to EPA that would cover export activities extending over a 12-month or lesser period. The written notification, signed by the exporter, must contain specific information covering the contact information and EPA ID number (if applicable) of the exporter, the estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported, the estimated total quantity of CRTs, all points of entry to and departure from each transit country through which the CRTs will pass, the length of time and nature of handling there, description of means of transportation, name and address of the ultimate destination facility, a description of the manner in which the CRTs will be used, specific wording for a certification signed by the CRT exporter and information and addresses for notifications submitted by mail and hand-delivery.

261.41(b). Subsection (b) has been modified to adopt additional language that describes how CRT exporters of used, intact CRTs sent for reuse must handle documentation written in a language other than English.

**3. The Department has amended R.61-79 to adopt “Revisions to the Definition of Solid Waste,” published on January 13, 2015 at 80 FR 1694-1814.**

**Checklist A – Changes affecting all non-waste determinations and variances.**

260.31(c). This paragraph has been modified to adopt language that clarifies when a partial reclamation variance is applicable and identify what factors must be used to make a determination that a partially-reclaimed material is commodity-like. Each criterion in this section has been revised to begin with the word “whether” to require that the regulatory authority make a yes or no determination as to whether the material meets each criterion and clarify and incorporate the characteristics of a commodity-like material.

260.33 Heading. This Heading has been modified to adopt “or for non-waste determinations.”

260.33(c). New subsection (c) has been added to adopt language that requires facilities to send a notice to the Department in the event of a change in circumstances that affects how a hazardous secondary material meets the relevant criteria upon which a variance or non-waste determination has been based. The Department may issue a determination that the hazardous secondary material continues to meet the relevant criteria of the variance or non-waste determination or may require the facility to re-apply for the variance or non-waste determination.

260.33(d). New subsection (d) has been added to adopt language that states that variances and non-waste determinations shall be effective for a fixed term not to exceed ten years. Facilities must reapply no later than six months prior to the end of the term if they want to maintain the variance or non-waste determination.

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260.33(e). New subsection (e) has been added to adopt language that states that facilities receiving a variance or non-waste determination must provide notification as required in the regulation.

260.42 Heading. New section (42) “Notification requirement for hazardous secondary materials” has been added. This section states that facilities managing hazardous secondary materials under parts of the regulation must send a notification prior to operating and by March 1 of each even-numbered year to the EPA. The notification must have specific facility and contact information, the NAICS code of the facility, the regulation under which the hazardous secondary materials will be managed, the dates to begin management, a list of hazardous secondary materials to be managed according to the regulation, whether there will be any management in a land-based unit, the quantity of the material to be managed annually, and signed and dated certification. If a facility managing hazardous secondary materials has submitted a notification but then no longer generates, manages and/or reclaims hazardous secondary materials as described, the EPA must be notified.

### **Checklist B – Legitimacy-related provisions, including prohibition of sham recycling, definition of legitimacy, definition of contained.**

260.10 Definitions. The new definitions: “Contained” and “Hazardous secondary material” have been added in alphabetical order.

260.43. New section “Legitimate recycling of hazardous secondary materials” has been added. This section states that all recycling of hazardous secondary materials must be legitimate and if not, then it is discarded material and is a solid waste. To determine if the recycling is legitimate, persons must address all the requirements listed in this section: must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process, must produce a valuable product or intermediate, the hazardous secondary material must be managed as a valuable commodity when it is under the generator’s and recycler’s control and the product of the recycling process must be comparable to a legitimate product or intermediate.

261.2(b)(3). This paragraph has been modified by adding “or” at the end of the sentence.

261.2(b)(4). New item (4) has been added to adopt language that refers to sham recycling.

261.2(g). New subsection (g) has been added to adopt language that states that a hazardous secondary material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in R. 61-79.260.43.

### **Checklist C – Speculative Accumulation.**

261.1(c)(8). This paragraph has been modified to adopt the language “Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method.” Two other stylistic changes have been made to bring this paragraph into conformity with the Federal regulation.

### **4. The Department has amended R.61-79 to adopt the “Vacatur of the Comparable Fuels Rule and the Gasification Rule,” published in the Federal Register on April 8, 2015 at 80 FR 18777-18780.**

260.10 Definitions. This section has been modified by removing the definition of “Gasification.”

261.4(a)(12)(i). This paragraph has been modified by removing the following language: “gasification (as defined in 40 CFR 260.10).”

261.4(a)(16). Removed and reserved.

261.38. Removed and reserved.

**Instructions:** Amend R.61-79 pursuant to each individual instruction provided with the text of the amendments below.

**Text:**

**Revise 61-79.260.10 to add the following definitions in alphabetical order within this section:**

“Contained” means held in a unit (including a land-based unit as defined in this subpart) that meets the following criteria:

(1) The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

(2) The unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit; and

(3) The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

(4) Hazardous secondary materials in units that meet the applicable requirements of 40 CFR parts 264 or 265 are presumptively contained.

“CRT exporter” means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

“Electronic manifest (or e-Manifest)” means the electronic format of the hazardous waste manifest that is obtained from EPA’s national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

“Electronic Manifest System (or e-Manifest System)” means EPA’s national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

“Hazardous secondary material” means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be identified as hazardous waste under part 261 of this chapter.

“User of the electronic manifest system” means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that:

(1) Is required to use a manifest to comply with:

(i) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or



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(ii) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

(2) Elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the EPA electronic manifest system, or

(3) Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with Section 264.71(a)(2)(v) or Section 265.71(a)(2)(v) of this chapter. These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

**Revise 61-79.260.10 to delete the definition of “Gasification” and modify the definition of “Manifest” to read:**

“Manifest” means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest, originated and signed in accordance with the applicable requirements of parts 262 through 265 of this chapter.

**Revise 61-79.260.31(c) to read:**

(c) The Department may grant requests for a variance from classifying as a solid waste those hazardous secondary materials that have been partially reclaimed but must be reclaimed further before recovery is completed, if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the variance is sought is commodity-like will be based on whether the hazardous secondary material is legitimately recycled as specified in 260.43 of this part and on whether all of the following decision criteria are satisfied:

(1) Whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the hazardous waste;

(2) Whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;

(3) Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps

(4) Whether there is a market for partially-reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading);

(5) Whether the partially-reclaimed material is handled to minimize loss.

**Revise 61-79.260.33 section heading to read:**

260.33. Procedures for variances from classification as a solid waste or to be classified as a boiler, or for non-waste determinations.

**Revise 61-79.260.33 to add subsection 260.33(c) to read:**

(c) In the event of a change in circumstances that affect how a hazardous secondary material meets the relevant criteria contained in Section 260.31, Section 260.32, or Section 260.34 upon which a variance or non-waste determination has been based, the applicant must send a description of the change in circumstances to the

Administrator. The Administrator may issue a determination that the hazardous secondary material continues to meet the relevant criteria of the variance or non-waste determination or may require the facility to re-apply for the variance or non-waste determination.

**Revise 61-79.260.33 to add subsection 260.33(d) to read:**

(d) Variances and non-waste determinations shall be effective for a fixed term not to exceed ten (10) years. No later than six (6) months prior to the end of this term, facilities must re-apply for a variance or non-waste determination. If a facility re-applies for a variance or non-waste determination within six (6) months, the facility may continue to operate under an expired variance or non-waste determination until receiving a decision on their re-application from the Administrator.

**Revise 61-79.260.33 to add subsection 260.33(e) to read:**

(e) Facilities receiving a variance or non-waste determination must provide notification as required by Section 260.42 of this chapter.

**Revise 61-79.260 to add section 260.42 to read:**

**260.42 Notification requirement for hazardous secondary materials.**

(a) Facilities managing hazardous secondary materials under Sections 260.30, 261.4(a)(23), 261.4(a)(24), or 261.4(a)(27) must send a notification prior to operating under the regulatory provision and by March 1 of each even-numbered year thereafter to the Regional Administrator using EPA Form 8700-12 that includes the following information:

- (1) The name, address, and EPA ID number (if applicable) of the facility;
- (2) The name and telephone number of a contact person;
- (3) The NAICS code of the facility;
- (4) The regulation under which the hazardous secondary materials will be managed;
- (5) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;
- (6) A list of hazardous secondary materials that will be managed according to the regulation (reported as the EPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);
- (7) For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;
- (8) The quantity of each hazardous secondary material to be managed annually; and
- (9) The certification (included in EPA Form 8700-12) signed and dated by an authorized representative of the facility.

(b) If a facility managing hazardous secondary materials has submitted a notification, but then subsequently stops managing hazardous secondary materials in accordance with the regulation(s) listed above, the facility must notify the Regional Administrator within thirty (30) days using EPA Form 8700-12. For purposes of this section, a facility has stopped managing hazardous secondary materials if the facility no longer generates,

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manages and/or reclaims hazardous secondary materials under the regulation(s) above and does not expect to manage any amount of hazardous secondary materials for at least 1 year.

**Revise 61-79.260 to add section 260.43 to read:**

### **260.43 Legitimate recycling of hazardous secondary materials.**

(a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining if their recycling is legitimate, persons must address all the requirements of this paragraph.

(1) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it:

- (i) Contributes valuable ingredients to a product or intermediate; or
- (ii) Replaces a catalyst or carrier in the recycling process; or
- (iii) Is the source of a valuable constituent recovered in the recycling process; or
- (iv) Is recovered or regenerated by the recycling process; or
- (v) Is used as an effective substitute for a commercial product.

(2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if it is:

- (i) Sold to a third party; or
- (ii) Used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.

(3) The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.

(4) The product of the recycling process must be comparable to a legitimate product or intermediate:

(i) Where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if:

(A) The product of the recycling process does not exhibit a hazardous characteristic (as defined in part 261 subpart C) that analogous products do not exhibit, and

(B) The concentrations of any hazardous constituents found in appendix VIII of part 261 of this chapter that are in the product or intermediate are at levels that are comparable to or lower than those found in analogous products or at levels that meet widely-recognized commodity standards and specifications, in the case where the commodity standards and specifications include levels that specifically address those hazardous constituents.

(ii) Where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if:

(A) The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (for example, commodity specification grades for common metals), or

(B) The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (for example, closed loop recycling).

(iii) If the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate per paragraph (a)(4)(i) or (ii) of this section, the recycling still may be shown to be legitimate, if it meets the following specified requirements. The person performing the recycling must conduct the necessary assessment and prepare documentation showing why the recycling is, in fact, still legitimate. The recycling can be shown to be legitimate based on lack of exposure from toxics in the product, lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the recycled product does not contain levels of hazardous constituents that pose a significant human health or environmental risk. The documentation must include a certification statement that the recycling is legitimate and must be maintained on-site for three years after the recycling operation has ceased. The person performing the recycling must notify the Regional Administrator of this activity using EPA Form 8700-12.

(b) [Reserved]

(c) [Reserved]

**Revise 61-79.261.1(c)(8) to read:**

(8) A material is “accumulated speculatively” if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (for example, slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Section 261.4(c) are not to be included in making the calculation. Materials that are already defined as solid wastes also are not to be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling, however.

**Revise 61-79.261.2(b)(3) to read:**

(3) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated; or

**Revise 61-79.261.2(b) to add subitem 261.2(b)(4) to read:**

(4) Sham recycled, as explained in paragraph (g) of this section.

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### Revise 61-79.261.2 to add item 261.2(g) to read:

(g) Sham recycling. A hazardous secondary material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in Section 260.43.

### Revise 61-79.261.4(a)(12)(i) to read:

(12)(i) Oil-bearing hazardous secondary materials (i.e., sludges, byproducts, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911 - including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except, as provided in paragraph (a)(12)(ii) of this section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph (a)(12)(i), where such materials as generated would have otherwise met a listing under subpart D of this part, are designated as F037 listed wastes when disposed of or intended for disposal.

### Revise 61-79.261.4(a) to delete 261.4(a)(16) text and reserve the section to read:

(16) [Reserved]

### Revise 61-79.261 to delete 261.38 text and reserve the section to read:

261.38 [Reserved]

### Revise 61-79.261.39(a)(5)(i)(F) to read:

(F) The name and address of the recycler or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the names of any alternate recyclers.

### Revise 61-79.261.39(a)(5) to add subitem 261.39(a)(5)(x) to read:

(x) CRT exporters must file with EPA no later than March 1 of each year, an annual report summarizing the quantities (in kilograms), frequency of shipment, and ultimate destination(s) (for example, the facility or facilities where the recycling occurs) of all used CRTs exported during the previous calendar year. Such reports must also include the following:

(A) The name, EPA ID number (if applicable), and mailing and site address of the exporter;

(B) The calendar year covered by the report;

(C) A certification signed by the CRT exporter that states:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

**Revise 61-79.261.39(a)(5) to add subitem 261.39(a)(5)(xi) to read:**

(xi) Annual reports must be submitted to the office specified in paragraph (a)(5)(ii) of this section. Exporters must keep copies of each annual report for a period of at least three (3) years from the due date of the report.

**Revise 61-79.261.41(a) to read:**

(a) Persons who export used, intact CRTs for reuse must send a notification to the Regional Administrator. The notification may cover export activities extending over a twelve (12) month or lesser period.

**Revise 61-79.261.41(a) to add item 261.41(a)(1) to read:**

(1) The notification must be in writing, signed by the exporter, and include the following information:

(i) Name, mailing address, telephone number, and EPA ID number (if applicable) of the exporter of the used, intact CRTs;

(ii) The estimated frequency or rate at which the used, intact CRTs are to be exported for reuse and the period of time over which they are to be exported;

(iii) The estimated total quantity of used, intact CRTs specified in kilograms;

(iv) All points of entry to and departure from each transit country through which the used, intact CRTs will pass, a description of the approximate length of time the used, intact CRTs will remain in such country, and the nature of their handling while there;

(v) A description of the means by which each shipment of the used, intact CRTs will be transported (for example, mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.));

(vi) The name and address of the ultimate destination facility or facilities where the used, intact CRTs will be reused, refurbished, distributed, or sold for reuse and the estimated quantity of used, intact CRTs to be sent to each facility, as well as the name of any alternate destination facility or facilities;

(vii) A description of the manner in which the used, intact CRTs will be reused (including reuse after refurbishment) in the foreign country that will be receiving the used, intact CRTs; and

(viii) A certification signed by the CRT exporter that states:

“I certify under penalty of law that the CRTs described in this notice are intact and fully functioning or capable of being functional after refurbishment and that the used CRTs will be reused or refurbished and reused. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

(2) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection

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Agency, William Jefferson Clinton Building, Room 6144, 1200 Pennsylvania Ave. NW., Washington, DC 20004. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export CRTs."

### **Revise 61-79.261.41(b) to read:**

(b) CRT exporters of used, intact CRTs sent for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported used, intact CRTs will be reused. This documentation must be retained for a period of at least three years from the date the CRTs were exported. If the documents are written in a language other than English, CRT exporters of used, intact CRTs sent for reuse must provide both the original, non-English version of the normal business records as well as a third-party translation of the normal business records into English within thirty (30) days upon request by EPA.

### **Revise 61-79.262.20(a) to add item 262.20(a)(3)**

(3) Electronic manifest. In lieu of using the manifest form specified in paragraph (a)(1) of this section, a person required to prepare a manifest under paragraph (a)(1) of this section may prepare and use an electronic manifest, provided that the person:

- (i) Complies with the requirements in Section 262.24 for use of electronic manifests, and
- (ii) Complies with the requirements of 40 CFR 3.10 for the reporting of electronic documents to EPA.

### **Revise 61-79.262 to add section 262.24 to read:**

#### **262.24 Use of the electronic manifest.**

(a) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with Section 262.20(a)(3), and used in accordance with this section instead of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 262.25.

(2) Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the system.

(3) Any requirement in these regulations for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

(4) No generator may be held liable for the inability to produce an electronic manifest for inspection under this section if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

(b) A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable

equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.

(c) Restriction on use of electronic manifests. A generator may prepare an electronic manifest for the tracking of hazardous waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system.

(d) Requirement for one printed copy. To the extent the Hazardous Materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest.

(e) Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions in the appendix to this part, and use these paper forms from this point forward in accordance with the requirements of Section 262.23.

(f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator/offeror certification on the printed copy of the manifest provided under paragraph (d) of this section.

(g) Imposition of user fee. A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to this part.

**Revise 61-79.262 to add section 262.25 to read:**

**262.25 Electronic manifest signatures.**

Electronic signature methods for the e-Manifest system shall:

(a) Be a legally valid and enforceable signature under applicable EPA and other Federal requirements pertaining to electronic signatures; and

(b) Be a method that is designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

**Revise 61-79.263.20(a)(3) to read:**

(3) Compliance Date for Form Revisions. The revised Manifest form and procedures in 260.10, 261.7, 263.20, and 263.21, had an effective date of September 5, 2006. The Manifest form and procedures in 260.10, 261.7, 263.20, and 263.21, contained in 260 to 265, edition revised as of July 1, 2004, were applicable until September 5, 2006.



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### **Revise 61-79.263.20(a) to add new item 263.20(a)(4) to read:**

(4) Use of electronic manifest—legal equivalence to paper forms for participating transporters. Electronic manifests that are obtained, completed, and transmitted in accordance with 262.20(a)(3) of this chapter, and used in accordance with this section instead of EPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.

(i) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR 262.25.

(ii) Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person by submission to the system.

(iii) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the Hazardous Materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, a hazardous waste transporter must carry one printed copy of the electronic manifest on the transport vehicle.

(iv) Any requirement in these regulations for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an electronic manifest in the transporter's account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

(v) No transporter may be held liable for the inability to produce an electronic manifest for inspection under this section if that transporter can demonstrate that the inability to produce the electronic manifest is exclusively due to a technical difficulty with the EPA system for which the transporter bears no responsibility.

### **Revise 61-79.263.20(a) to add new item 263.20(a)(5) to read:**

(5) A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

### **Revise 61-79.263.20(a) to add new item 263.20(a)(6) to read:**

(6) Special procedures when electronic manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then:

(i) The transporter in possession of the hazardous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to paragraph (a)(4)(iii)(A) of this section, or obtain and complete another paper manifest for this purpose. The transporter shall reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.

(ii) On each printed copy, the transporter shall include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the

electronic manifest system, shall include (if not pre-printed on the replacement manifest) the manifest tracking number of the electronic manifest that is replaced by the paper manifest, and shall also include a brief explanation why the electronic manifest was not available for completing the tracking of the shipment electronically.

(iii) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.

(iv) From the point at which the electronic manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies shall be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

**Revise 61-79.263.20(a) to add new item 263.20(a)(7) to read:**

(7) Special procedures for electronic signature methods undergoing tests. If a transporter using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter shall sign the electronic manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with paragraph (a)(4)(iii)(A) of this section. This printed copy bearing the generator's and transporter's ink signatures shall also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner/operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy shall be delivered to the designated facility with the waste materials.

**Revise 61-79.263.20(a) to add new item 263.20(a)(8) to read:**

(8) Imposition of user fee for electronic manifest use. A transporter who is a user of the electronic manifest may be assessed a user fee by EPA for the origination or processing of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to part 262 of this Chapter.

**Revise 61-79.263 to add section 263.25 to read:**

**263.25 Electronic manifest signatures.**

(a) Electronic manifest signatures shall meet the criteria described in Section 262.25 of this chapter.

**Revise 61-79.264.71(a)(2)(iv) to read:**

(iv) Within 30 days of delivery, send a copy (Page 3) of the manifest to the generator.

**Revise 61-79.264.71(a)(2)(v) to read:**

(v) Within thirty (30) days of delivery, send the top copy (Page 1) of the Manifest to the e-Manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this paragraph must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system.

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### **Revise 61-79.264.71(a)(2) to add subitem 264.71(a)(2)(vi) to read:**

(vi) Retain at the facility a copy of each manifest for at least three (3) years from the date of delivery.

### **Revise 61-79.264.71 to add subsection 264.71(f) to read:**

(f) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with Section 262.20(a)(3) of this chapter, and used in accordance with this section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR 262.25.

(2) Any requirement in these regulations to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment.

(4) Any requirement in these regulations for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized Department inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

### **Revise 61-79.264.71 to add subsection 264.71(g) to read:**

(g) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

### **Revise 61-79.264.71 to add subsection 264.71(h) to read:**

(h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest,

(2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest,

(3) Within thirty (30) days of delivery of the waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the electronic manifest system, and

(4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three (3) years from the date of delivery.

**Revise 61-79.264.71 to add subsection 264.71(i) to read:**

(i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy among its records for at least three (3) years from the date of delivery of the waste.

**Revise 61-79.264.71 to add subsection 264.71(j) to read:**

(j) Imposition of user fee for electronic manifest use. An owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest. An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under Section 264.71(a)(2)(v). EPA shall maintain and update from time-to-time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to part 262 of this chapter.

**Revise 61-79.264.71 to add subsection 264.71(k) to read:**

(k) Electronic manifest signatures. Electronic manifest signatures shall meet the criteria described in Section 262.25 of this chapter.

**Revise 61-79.265.71(a)(2)(iv) to read:**

(iv) Within 30 days of delivery, send a copy (Page 3) of the manifest to the generator.

**Revise 61-79.265.71(a)(2)(v) to read:**

(v) Within thirty (30) days of delivery, send the top copy (Page 1) of the Manifest to the electronic manifest system for purposes of data entry and processing. Instead of mailing this paper copy to EPA, the owner or operator may transmit to the system operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this paragraph must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system.

**Revise 61-79.265.71(a)(2) to add subitem 265.71(a)(2)(vi) to read:**

(vi) Retain at the facility a copy of each manifest for at least three (3) years from the date of delivery.

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### **Revise 61-79.265.71 to add subsection 265.71(f) to read:**

(f) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with Section 262.20(a)(3) of this chapter, and used in accordance with this section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR 262.25.

(2) Any requirement in these regulations to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment.

(4) Any requirement in these regulations for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized Department inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

### **Revise 61-79.265.71 to add subsection 265.71(g) to read:**

(g) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

### **Revise 61-79.265.71 to add subsection 265.71(h) to read:**

(h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest,

(2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest,

(3) Within thirty (30) days of delivery of the waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the electronic manifest system, and

(4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three (3) years from the date of delivery.

**Revise 61-79.265.71 to add subsection 265.71(i) to read:**

(i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy among its records for at least three (3) years from the date of delivery of the waste.

**Revise 61-79.265.71 to add subsection 265.71(j) to read:**

(j) Imposition of user fee for electronic manifest use. An owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest. An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under Section 264.71(a)(2)(v). EPA shall maintain and update from time-to-time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to part 262 of this chapter.

**Revise 61-79.265.71 to add subsection 265.71(k) to read:**

(k) Electronic manifest signatures. Electronic manifest signatures shall meet the criteria described in Section 262.25 of this chapter.

**Statement of Need and Reasonableness:**

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

**DESCRIPTION OF REGULATION:**

**Purpose:** The purpose of these amendments is to maintain State consistency with regulations of the EPA, which promulgated amendments to 40 CFR 260 through 265, between February 7, 2014, and April 8, 2015.

**Legal Authority:** The legal authority for R.61-79 is S.C. Code Section 44-56-30.

**Plan for Implementation:** Upon publication in the *State Register* as a final regulation, an electronic copy of R.61-79, that 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 and Waste Management category and scroll down to R.61-79. 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. The Department will also send an email to stakeholders and affected facilities and to other interested parties.

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

1. The Department has amended R.61-79 to adopt the “Hazardous Waste Electronic Manifest System; Final Rule,” published on February 7, 2014, at 79 FR 7518-7563. The rule establishes new requirements that will authorize the use of electronic manifests (or e-Manifests) as a means to track off-site shipments of hazardous waste from a generator’s site to the site of the receipt and disposition of the hazardous waste. This final rule also implements certain provisions of the Hazardous Waste Electronic Manifest Establishment Act, Pub. L. 112-195, which directs the EPA to establish a national electronic manifest system (or e-Manifest system), and to impose reasonable user service fees as a means to fund the development and operation of the e-Manifest system. This rule announces, consistent with the mandate of the Hazardous Waste Electronic Manifest Establishment Act (section 2(g)(2)), that the final electronic manifest requirements promulgated will be implemented in all states on the same effective date for the national e-Manifest system. Adoption of this rule is required to comply with Federal law and will bring R. 61-79 into conformity with the Federal regulation.

2. The Department has amended R.61-79 to adopt the “Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule,” published on June 26, 2014, at 79 FR 36220-36231. The rule revises certain export provisions of the CRT final rule published on July 28, 2006 (71 FR 42928). The revisions will allow the Department to better track exports of CRTs for reuse and recycling in order to ensure safe management of these materials. Adoption of this rule is required to comply with Federal law and will bring R. 61-79 into conformity with the Federal regulation.

3. The Department has amended R.61-79 to adopt the “Revisions to the Definition of Solid Waste,” published on January 13, 2015, at 80 FR 1694-1814. The rule revises several recycling-related provisions associated with the definition of solid waste used to determine hazardous waste regulation under Subtitle C of the Resource Conservation and Recovery Act. The purpose of these revisions is to ensure that the hazardous secondary materials recycling regulations, as implemented, encourage reclamation in a way that does not result in increased risk to human health and the environment from discarded hazardous secondary material. Adoption of the sections of the rule that cover changes affecting all non-waste determinations and variances, legitimacy-related provisions, including prohibition of sham recycling, definition of legitimacy, definition of contained and speculative accumulation are required to comply with Federal law and will bring R. 61-79 into conformity with the Federal regulation.

4. The Department has amended R.61-79 to adopt the “Vacatur of the Comparable Fuels Rule and the Gasification Rule,” published on April 8, 2015, at 80 FR 18777-18780. The EPA is revising regulations associated with the comparable fuels exclusion and the gasification exclusion, originally issued by EPA under the Resource Conservation and Recovery Act (RCRA). These revisions implement vacatur orders by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014. For states that have previously been authorized for the comparable fuels and gasification rules (to include South Carolina), the effect of the vacatur is that the previously authorized comparable fuels and gasification exclusion will no longer be in effect. Adoption of this rule is required to comply with Federal law and will bring R. 61-79 into conformity with the Federal regulation.

### DETERMINATION OF COSTS AND BENEFITS:

These regulatory amendments are exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the changes are necessary to maintain compliance with Federal regulations and law.

There should be no increased cost to the State or its political subdivisions resulting from this revision. Amendments to R. 61-79 will establish new requirements authorizing the use of electronic manifests for tracking off-site shipments of hazardous waste from a generator’s site to the site of the receipt and disposition of the waste, allowing the Department to better track exports of Cathode Ray Tubes for reuse and recycling to ensure

safe management of the materials, ensuring that the hazardous secondary materials recycling regulations encourage reclamation in a way that does not result in increased risk to human health and the environment from discarded hazardous secondary materials, and revising regulations associated with the comparable fuels exclusion and the gasification exclusion by implementing vacatur ordered by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014. For states that have previously been authorized for the comparable fuels and gasification rules (to include South Carolina), the effect of the vacatur is that the previously authorized comparable fuels and gasification exclusion will no longer be in effect.

#### 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 revisions to R.61-79 will provide continued protection of the environment and public health.

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

If the Regulation is not implemented, there will be a detrimental effect on the environment and public health because the EPA's delegation of authority to the State to implement environmental protection programs would be compromised. As a delegated State program, the EPA requires that the State's regulations be at least as stringent as, and equivalent to the Federal regulations. Adoption of these revisions will ensure equivalency with Federal requirements.

#### Statement of Rationale:

R.61-79 contains requirements for hazardous waste management, including identification of waste, standards for generators, transporters, and owners/operators of treatment, storage, and disposal (TSD) facilities, procedures for permits for TSD facilities, investigation and cleanup of hazardous waste, and closure/post-closure requirements. The regulation is promulgated pursuant to the S.C. Hazardous Waste Management Act, Section 44-56-30. As an authorized state program, the regulation must be equivalent to and consistent with the U.S. EPA's regulations under RCRA, 42 U.S.C. Section 6901 *et. seq.* The EPA periodically promulgates regulations that are either mandatory for authorized state programs to adopt or maintain program equivalency, or are optional for states because the changes are less stringent than the current Federal regulation. R.61-79 has been amended numerous times since it was first promulgated in 1984 to adopt Federal regulations that are mandatory for an authorized state to adopt to maintain program equivalency.

Document No. 4570

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

Statutory Authority: 1976 Code Section 44-1-140(7)

61-50. Natural Public Swimming Areas

#### Synopsis:

On June 22, 2012, Regulation 61-68, *Water Classifications and Standards*, was amended and changed the bacteriological water quality indicator used to determine water classifications from fecal coliform to E. coli. Regulation 61-50, *Natural Public Swimming Areas*, establishes minimum criteria for construction, operation and bacteriological water quality at natural public swimming areas. Currently, Regulation 61-50 requires natural public swimming areas to comply with fecal coliform bacteria standards in order to remain open to the public.



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These amendments of Regulation 61-50 change the bacteriological water quality standard from fecal coliform to *E. coli* so that Regulation 61-50 is consistent with Regulation 61-68. See Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting for these amendments was published in the February 27, 2015 *State Register*.

### Section-by-Section Discussion of Amendments

#### 61-50.C.7

Revised to replace fecal coliform with *E. Coli* as the indicator of bacteriological water quality for the initial monitoring required for all new natural public swimming areas.

#### 61-50.D.6

Revised to replace fecal coliform with *E. Coli* as the indicator of bacteriological water quality for routine monitoring required for all existing natural public swimming areas.

**Instructions:** Amend Regulation 61-50 pursuant to each individual instruction provided with the text of the amendments below.

#### **Text:**

61-50. Natural Public Swimming Areas.

#### **Amend 61-50.C.7 to read:**

7. **Initial Monitoring.** The facility owner or his/her designated agent shall conduct initial bacteriological sampling of the swimming area. All samples collected must be analyzed by a certified laboratory in accordance with an EPA approved methodology resulting in the enumeration of *E. coli* bacteria using most probable number (MPN) methodology. Samples shall be collected in a location representative of the swimming area and a minimum of one (1) of the samples shall be collected following a rainfall event. Based on a statistically sufficient number of samples (generally not less than five (5) samples equally spaced over a 30-day period), the geometric mean of the indicated bacterial densities shall not exceed the following:

*E. coli* sample: 126 MPN per 100 ml;  
nor shall more than 10% of the total samples exceed 349 MPN per 100 ml.

#### **Amend 61-50.D.6 to read:**

6. **Routine Monitoring.** Routine monitoring shall be conducted by the facility owner or their designated agent. All samples collected must be analyzed by a certified laboratory in accordance with an EPA approved methodology resulting in the enumeration of *E. coli* bacteria using most probable number (MPN) methodology. The following single sample limit shall apply as the acceptable routine sample standard.

a. *E. coli* sample: A single sample maximum of 349 MPN per 100 ml.

b. Samples shall be collected in a location representative of the swimming area. No less than two sampling events shall be conducted every month while the swimming area is in operation. Sampling events shall occur no more than fourteen (14) days apart.

c. The Department shall be notified by the facility owner or his/her designated agent should a sample result exceed the limit as established in paragraph 6(a) of this section. This notification must be received within 24 hours of an owner or his/her designated agent's knowledge of the exceeded sample limit.

d. A copy of results from all samples collected shall be submitted to the Department by the end of every month.

**Fiscal Impact Statement:**

The amendments will have no substantial fiscal or economic impact of the State or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed.

**Statement of Need and Reasonableness:**

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. 1976 Code Section 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Regulation 61-50, *Natural Public Swimming Areas*.

Purpose: These amendments change the bacteriological water quality indicator in Regulation 61-50, *Natural Public Swimming Areas*, to E. coli for consistency with Regulation 61-68, *Water Classifications and Standards*.

Legal Authority: Regulation 61-50 is authorized by 1976 S.C. Code Section 44-1-140(7).

Plan for Implementation: The amendments will be incorporated within Regulation 61-50 upon approval by the General Assembly and publication as final regulations in the *State Register*. Regulation 61-50, to include these latest amendments, will be published on the Department's Laws and Regulations website and will subsequently be incorporated into Regulation 61-50 in the S.C. Code of Regulations. The amendments will be implemented in the same manner in which the current regulations are implemented.

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

The adoption of these amendments is needed and reasonable because they will make the bacteriological water quality standard for natural public swimming areas consistent with the bacteriological water quality standard for recreational uses in freshwaters established in Regulation 61-68, *Water Classifications and Standards*.

**DETERMINATION OF COSTS AND BENEFITS:**

Internal costs: No cost to the State or its political subdivisions is anticipated by these amendments.

External costs: There is little or no anticipated costs to the regulated community for implementing these amendments.

**UNCERTAINTIES OF ESTIMATES:**

Minimal.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

There is no anticipated effect on the environment or public health from these amendments.

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

There is no anticipated detrimental effect on the environment or public health if these amendments are not implemented.

#### Statement of Rationale:

These amendments of Regulation 61-50, *Natural Public Swimming Areas*, are necessary for consistency with Regulation 61-68, *Water Classifications and Standards*, which sets statewide water quality standards for the classification of water bodies.

Document No. 4591

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140 (11), 44-1-150, and 48-1-10 et seq.

#### 61-56. Onsite Wastewater Systems

##### Synopsis:

South Carolina Regulation 61-56, Onsite Wastewater Systems, was last amended effective May 23, 2008. Regulation 61-56 governs the methods of disposition of sewage and prescribes uniform use of design, construction and installation standards of onsite wastewater systems (septic tank systems).

The purpose of the amendments being considered is to update and bring R.61-56 in line with current statutes and current changes in the technologies of design, construction and installation of onsite wastewater systems since the last revision. The amendments include updates in nomenclature and technology, as well as addition of definitions and clarifications of definitions, site requirements and system requirements. Additionally, to upgrade the overall quality and usefulness of the Regulation stylistic changes are being made for improved clarity and consistency.

A Notice of Drafting for this proposed regulation was published in the *State Register* on June 26, 2015.

See Statements of Need and Reasonableness and Rationale herein.

#### Section-by-Section Discussion:

##### The amendments are:

The statutory authority for this Regulation is added under the title and before the Table of Contents to reflect the current authority and for consistency with other Department regulations. The authority for this Regulation was inadvertently omitted by amendment of R.61-56 in State Register Document No. 3154 on May 23, 2008 when this Regulation was last amended and replaced in its entirety.

The References section at the beginning of this Regulation under the Title of R.61-56 is being deleted in its entirety and relocated at new Section 101.B. of this Regulation to meet codification requirements pursuant to State Register drafting standards for regulations.

Regulation 61-56, Contents heading, is amended by addition of "Table of" to read "Table of Contents" for clarity.

Regulation 61-56, Section 101, Definitions heading, is amended to add the phrase “and References”. Section 101 is divided into 101.A; Definitions, and 101.B; References. The References section that is deleted under the Title of R.61-56 is revised for clarification and consistency, and repositioned at a new Section 101.B. to meet codification and outlining standards required by the State Register for drafting regulations.

Under 101.B.(1) of the references section the citation “44-1-20, et seq.” is incorrect and is amended by deletion and is replaced by the addition of the correct citation of 44-1-140(11).

The introductory phrase “are those in force on the effective date of this Regulation” has been added for clarification under 101.B.(1) of the references section for designated Statutes.

Under 101.B.(1) of the references section there are added three new statutory citations at 101.B.(1) (f), (g), and (h) that are now mentioned in specific amendments made to the Regulation. The added statutes are “(f) 1976 S.C. Code of Laws, Section 48-39-280 et seq., South Carolina Coastal Tidelands and Wetlands (1976 Code as amended);” “(g) 1976 S.C. Code of Laws, Section 44-55-1410 et seq., Water and Sewer Facilities in Counties (1976 S.C. Code as amended);” and “(h) 1976 S.C. Code of Laws, Section 5-31-2010 et seq., Additional Powers of Municipalities as to Sewage Collection and Disposal (1976 S.C. Code as amended).”

Under 101.B.(1) of the references section, “1976” is added before “S.C. Code of Laws” to amend 101.B.(1) (a) and 101B.(1) (b) for correct citation of statute for clarification and consistency.

Under 101.B.(1) (a), (b), (c), (d), (e), (f), (g), and (h) of the references section, the word “Section” is added before citation numbers for correct citation of statute for clarification and consistency.

The introductory phrase “are those in force on the effective date of this Regulation” has been added for clarification under 101.B.(2) of the references section for designated Regulations.

Under 101B.(2) the introductory phrase is amended by deleting the words “standards and/or publications are” and adding in its place “Regulation” for clarity.

The introductory phrase “are those in force on the effective date of this Regulation” has been added for clarification under 101.B.(3) of the references section for designated manufacturing and procedural standards.

Under 101.B.(3) of the references section there are added two new references at (d) and (f) standards that are now mentioned in in the added Section 900 of the amendment. The added references are “(d) Canadian Standard Association (CSA)” and “(f) International Association of Plumbing and Mechanical Officials (IAPMO).” Also under 101.B.(3) the citations references of 1. through 8. were amended for clarity and consistency to 101.B.(3) (a) through (i).

In the introductory sentence of 101.B.(1), 101.B.(2), and 101.B.(3) the word “regulation” is amended to read “Regulation” for consistency elsewhere in each subsection introductory sentence.

**Adding:**

Regulation 61-56, Subsection 103.3 is amended to add the requirement for the licensed septic tank contractor’s signature that verifies the onsite wastewater system was installed as the Department issued permit prescribed. This requirement is needed to document the onsite wastewater system was installed based on the site evaluation and permit issued for the onsite wastewater system. Any variations or modifications from the permit would require further site evaluation and permit modification/revision.

Regulation 61-56, Section 101 is amended to add a definition for “Site Evaluation.” This definition is added to clarify in detail the meaning of a “Site Evaluation.”

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Regulation 61-56, Section 101 is amended to add a definition for “Perched Zone of Saturation.” This definition is added to clarify in detail the meaning of a “Perched Zone of Saturation” so as to distinguish various saturation zones of soil.

Subsection 204.4 is amended under Section 204 EVALUATION OF ALTERNATIVE INFILTRATION TRENCH PRODUCTS with added language to allow a lesser amount of trench backfill (below the required at least nine (9) inches) on alternative infiltration trench products if approved by the Department.

Regulation 61-56, is amended to add “Section 900 Appendix V – Thermoplastic Tanks Standard” to address low profile septic tanks. The addition of this section on low profile septic tanks will clarify the use of this new technology.

### **Amending:**

In Regulation 61-56, Section 101, the definition of “Critical Area Line” is amended to be consistent with the definition and language for “Critical Area” found in the Coastal Tidelands and Wetlands Act (S. C. Code Section 48-39-10 et seq.).

The definition of “Redox Depletions” is being modified so as to describe the different lighter color or shades of lighter color interspersed with the dominant matrix color of the soil.

The definition of “Zone of Saturation” to clarify the redox depletions of value four (4) or more and chroma two (2) or less using soil color charts in the zone of saturation.

Subsection 102.6 under Section 102 GENERAL to clarify that a Registered Professional Engineer licensed in the State of South Carolina may also design all onsite wastewater systems where the sewage flow will be less than fifteen hundred (1500) gallons per day (gpd).

Subsection 200.6(4) is amended to match the intent of the amended definition of “Critical Area Line” to “Critical Area” by revision of language.

The definition of “Accessible” in Section 101 is amended to further clarify the meaning of accessibility as discussed in Section 300 “Wastewater Treatment Facility Accessibility.” The definition will then be consistent with S.C. Code Sections 44-55-1410 and 5-31-2010 on authority to allow access to wastewater treatment facilities in lieu of installation of an onsite wastewater system. The word “Accessible” is changed to “Accessibility” as well as amending the definition.

Section 415, Appendix O – System Standard 610 – Specialized Onsite Wastewater Designs (Less than 1500 gpd), is amended to remove subsection (2) in its entirety, and to revise subsection (3) to streamline the permitting process for the specialized onsite wastewater systems.

Subsection 600.4(1) is amended by adding the minimum installation depth of the force main on an onsite wastewater system pump.

**Instructions:** Revise R.61-56 with the amendments as shown.

### **Text:**

61-56. ONSITE WASTEWATER SYSTEMS.

**Add the Statutory Authority under the Title of the Regulation to read:**

Statutory Authority: 1976 S.C. Code Sections 44-1-140(11), 44-1-150, and 48-1-10 et seq.

**Delete the References Section under the title of the Regulation: (The References Section will be repositioned under new Section 101.B.)**

**Revise the Contents section to read:**

TABLE OF CONTENTS:

100 Purposes and Scope  
 101 Definitions and References  
 102 General  
 103 Application, Permit, Approval  
 200 Minimum Site Conditions  
 201 Minimum Requirements for Primary Treatment  
 202 Minimum Requirements for Final Treatment and Disposal Systems  
 203 Construction Criteria  
 204 Evaluation of Alternative Infiltration Trench Products  
 300 Wastewater Treatment Facility Accessibility  
 301 Discharge of Waste  
 302 Enforcement Provisions  
 303 Repeal and Date of Effect  
 304 Changes in Use that Impact Existing Onsite Wastewater Systems  
 305 Severability Clause  
 400 Appendices of Standards for Onsite Wastewater Systems  
 401 Appendix A - System Standard 150 - Large (greater than 1500 gpd) and Community Systems  
 402 Appendix B - System Standard 210/211 - Shallow Placement With 9-Inch Aggregate Depth  
 403 Appendix C - System Standard 220/221 - Shallow Placement With 6-Inch Aggregate Depth  
 404 Appendix D - System Standard 230/231 - Shallow Placement With 14-Inch Aggregate Depth With Fill Cap  
 405 Appendix E - System Standard 240/241 - Ultra-Shallow Placement With 6-Inch Aggregate Depth With Fill Cap  
 406 Appendix F - System Standard 250/251 - Reservoir Infiltration System For Soils With Expansive Clay  
 407 Appendix G - System Standard 260/261 - 9-Inch Shallow Placement System With Fill Cap System  
 408 Appendix H - System Standard 270/271 - Alternative Trench Width and Depth Systems  
 409 Appendix I - System Standard 280/281 - Reservoir Infiltration System For Soils With Expansive Clay Shallow Rock Formations  
 410 Appendix J - System Standard 370/371 - Shallow Placement With Fill Cap for Sites With Shallow Class IV Soil  
 411 Appendix K - System Standard 380/381 - Double Aggregate Depth Wastewater Infiltration Trenches  
 412 Appendix L - System Standard 420/421 - Mounded Infiltration System  
 413 Appendix M - System Standard 431 - Mounded Fill System  
 414 Appendix N - System Standard 601 - Elevated Infiltration System  
 415 Appendix O - System Standard 610 - Specialized Onsite Wastewater System Designs (Less Than 1500 GPD)  
 416 Appendix P - Curtain Drain Standard  
 500 Appendix Q - Long-Term Acceptance Rate Standard For Onsite Wastewater Systems  
 501 Appendix R - Peak Sewage Flow Rate Standard  
 600 Appendix S - Onsite Wastewater Pump System Standard  
 700 Appendix T - Minimum Design Standards For Tank Construction  
 800 Appendix U - Fiberglass Reinforced Plastic Tanks Standard  
 900 Appendix V - Thermoplastic Tanks Standard

**Revise Section 101, revising the title and dividing Section 101 into subsections A and B to read; Revise Section 101 by addition of new definitions and amendment of specific current definitions to read; and Revise References Section to read:**

## 64 FINAL REGULATIONS

### 101 DEFINITIONS AND REFERENCES

#### A. DEFINITIONS.

**ACCESSIBILITY** - S.C. Code Sections 44-55-1410 and 5-31-2010 authorizes county and municipal governments to determine if a wastewater treatment facility is accessible to properties. Where annexation or easements to cross adjacent property are required to connect to a wastewater treatment facility, the wastewater treatment facility shall not be considered accessible.

**ALTERNATIVE SYSTEM** – A system incorporating design modifications of the proposed subsurface wastewater infiltration trench area or geometry for the purpose of achieving compliance with required setbacks and offset to the zone of saturation and/or restrictive horizons. No such system shall be utilized unless the Department has established a specific standard.

**ALTERNATIVE INFILTRATION TRENCH PRODUCTS**- Products specifically designed to replace or eliminate the aggregate typically utilized in subsurface infiltration trenches. Such products must be approved for use by the Department and must adhere to required equivalency values established herein.

**APPLICANT** – A property owner, general contractor or agent representing the property owner, or developer who seeks a permit to construct and operate an onsite wastewater system.

**CAMPGROUND** - An organized camp in which campsites are provided for use by the general public or certain groups.

**CANAL** – An artificial waterway used for navigation, drainage, or irrigation.

**COLOR CHARTS (Munsell System or equivalent)** – Charts bearing various color chips established by a recognized color system which use three elements—hue, value, and chroma—to make up a specific color notation. The notation is recorded in the form of hue, value, and chroma (e.g. 10YR 5/6). The three attributes of color are arranged in the system in orderly scales of equal visual steps, which are used to measure and describe color accurately under standard conditions of illumination by comparing soil samples to color chips on various charts.

**CONVENTIONAL SYSTEM** – An onsite wastewater system that utilizes a network of conventional wastewater infiltration trenches installed in the naturally occurring soil for the treatment and disposal of domestic wastewater.

**CRITICAL AREA** - S. C. Code Section 48-39-10(J) defines critical area as the following: 1) coastal waters; 2) tidelands; 3) beaches; 4) beach/dune systems which are the areas from the mean high-water mark to the setback line as determined in S. C. Code Section 48-39-280.

**CURTAIN DRAIN** – A subsurface interceptor drain that is installed to collect and redirect seasonal groundwater as it flows through the soil profile to an appropriate discharge point.

**DEPARTMENT** – The South Carolina Department of Health and Environmental Control.

**DITCH** – A long narrow excavation, intended for the purposes of drainage and/or irrigation.

**DOMESTIC WASTEWATER OR SEWAGE**- The untreated liquid and solid human body waste and the liquids generated by water-using fixtures and appliances, including those associated with food service operations. For the purposes of this regulation, domestic wastewater shall not include industrial process wastewater.

**EFFLUENT** – The liquid discharged from a septic tank, effluent pump station, or other sewage treatment device.

**EMBANKMENT** – A bank of soil with at least two (2) feet of vertical height from top to bottom.

**ENVIRONMENTALLY SENSITIVE WATERS** – Outstanding resource waters (ORW), Shellfish Harvesting Waters (SFH), and Trout-Natural Waters (TN) as defined in R.61-68 and classified in R.61-69, and including lakes greater than forty (40) acres in size and the Atlantic Ocean, regardless of their classifications in R.61-69.

**EXISTING SYSTEM** - An onsite wastewater system, which has received final construction approval or has been serving a legally occupied residence or structure.

**EXPANSIVE SOILS** – Soils containing significant amounts of expansible-layer clay minerals (smectites) as evidenced in the field by classifications of “Very Sticky,” “Very Plastic” and where “Slickensides” are present when evaluated in accordance with the Field Book. Such soil horizons are considered to be restrictive for onsite wastewater systems.

**FAILING ONSITE WASTEWATER SYSTEM** – An onsite wastewater system that is discharging effluent in an improper manner or has ceased to function properly.

**FIBERGLASS REINFORCED PLASTIC** - A fibrous glass and plastic mixture that exhibits a high strength to weight ratio and is highly resistant to corrosion.

**FIELD BOOK FOR DESCRIBING AND SAMPLING SOILS (Field Book)** – A field guide published by the U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) for making or reading soil descriptions and for sampling soils, as presently practiced in the USA.

**FINAL TREATMENT AND DISPOSAL** - Ultimate disposition of the effluent from a septic tank or other treatment device into the soil.

**FLEXURAL MODULUS OF ELASTICITY** - A measure of stiffness of a material.

**FLEXURAL STRENGTH** - A measure of the ability of a material to withstand rupture when subjected to bend loading.

**GEL COATING** - A specially formulated polyester resin, which is pigmented and contains filler materials, the purpose of which is to provide a smooth, pore-free, watertight surface for fiberglass reinforced plastic parts.

**GREASE TRAP** - A device designed to separate and store the oil and grease component of wastewater discharged from facilities that prepare food.

**GLEYING** – Bluish, greenish, or grayish colors in the soil profile that are indicative of markedly reduced conditions due to prolonged saturation. This condition can occur in both mottled and unmottled soils, and can be determined by using the Gley page of the soil color charts.

**INDUSTRIAL PROCESS WASTEWATER**- Non-domestic wastewater generated in a commercial or industrial operation that may or may not be combined with domestic wastewater.

**LONG-TERM ACCEPTANCE RATE (LTAR)** – The long-term rate, typically expressed in gallons per day per square foot of trench bottom area, at which a mature onsite wastewater system can continue to accept effluent without hydraulic failure occurring. This flow rate is a result of the interaction between unsaturated soil hydraulic conductivity and biomat resistance.

**MOTTLING** – Morphological features of the soil revealed as spots or blotches of different color or shades of color interspersed with the dominant matrix color.



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**NSF STANDARD #14** - A National Sanitation Foundation Standard relating to thermoplastics, which have been tested and found satisfactory for potable water supply uses, and for drains, waste and vent applications.

**ONSITE WASTEWATER SYSTEM** – A system, generally consisting of a collection sewer, septic tank(s), and subsurface wastewater infiltration area, designed to treat and dispose of domestic wastewater through a combination of natural processes that ultimately result in effluent being transmitted through the soil, renovated, and ultimately discharged to groundwater.

(1) **Small Onsite Wastewater System** – An individual system serving an individually deeded residence or business that generates less than fifteen hundred (1500) gallons per day of domestic wastewater. Management and maintenance of each system is the responsibility of the individual property owner.

(2) **Large Onsite Wastewater System (General)** – An individual system that treats and disposes of domestic wastewater discharges in excess of fifteen hundred (1500) gallons per day.

(a) **Privately Owned Large System** – A large onsite wastewater collection and treatment system that serves one piece of deeded property such as a school, adult residential care facility, rental apartment complex, shopping center, campground, mobile home park, office complex, etc. Management and maintenance of the system is the responsibility of the individual property owner.

(b) **Community (Cluster) System** – A wastewater collection and treatment system that provides shared collection, treatment, and disposal of domestic wastewater from multiple parcels or multiple units of individually deeded property. Such a system might serve a small subdivision or a condominium complex. It is imperative with such systems that some form of common ownership and management be established and approved by the Department.

**OPERATION AND MAINTENANCE** — Activities including tests, measurements, adjustments, replacements, and repairs that are intended to maintain all functional units of the onsite wastewater system in a manner that will allow the system to function as designed.

**PARENT MATERIAL** – The unconsolidated and chemically weathered mineral or organic matter from which the column of soils is developed by pedogenic processes.

**PERCHED ZONE OF SATURATION** – A soil horizon that is a perched water table soil horizon that is intermittently saturated with water above a soil horizon that is not saturated with water.

**PERMIT** - A written document issued by the Department authorizing the construction and operation of an onsite wastewater system under this regulation. The construction and operation permit survives the life of the onsite wastewater system that it authorizes.

**PLASTICITY** – The degree to which “puddled” or reworked soil can be permanently deformed without rupturing. The evaluation is made in accordance with the Field Book by forming a roll (wire) of soil at a water content where the maximum plasticity is expressed.

**PRIMARY TREATMENT** - The initial process to separate solids from the liquid, digest organic matter and store digested solids through a period of detention and biological conditioning of liquid waste.

**PROFESSIONAL SOIL CLASSIFIER** – A person with special knowledge of the physical, chemical and biological sciences applicable to soils as natural bodies and of the methods and principles of soil classification as acquired by soils education and soil classification experience in the formation, morphology, description and mapping of soils; is qualified to practice soil classifying; and who has been duly registered by the South Carolina State Board of Registration for professional soil classifiers.

**PUBLIC ENTITY** – Any organizations such as a city, town county, municipality, or special purpose sewer district.

**PUBLIC WATER SYSTEM** - Any publicly or privately owned waterworks system that provides drinking water for human consumption, as defined in R.61-58, State Primary Drinking Water Regulations.

**PUMP CHAMBER** - A water-tight, covered receptacle designed and constructed to receive and store the discharge from a septic tank until such time that the effluent is pumped to a final treatment and disposal site.

**RECEPTOR** – Any water well or surface water of the state, including estuaries.

**REDOX DEPLETIONS** – Morphological features that are formed by the processes of reduction and translocation of iron and manganese oxides in seasonally saturated soils. These features may be revealed as spots, blotches or streaks and are lighter shades of color compared with the dominant matrix color.

**REDOXIMORPHIC FEATURES** – Morphological features that are formed by the processes of reduction, translocation, and oxidation of iron and manganese oxides in seasonally saturated soils. These include redox concentrations, redox depletions, and reduced matrices.

**REMOTE SUBSURFACE WASTEWATER INFILTRATION AREA** – A subsurface wastewater infiltration area that is not situated within the legal boundaries of the primary lot or tract that it serves.

**REPAIR** -- Any work performed on an existing onsite wastewater system for the purposes of correcting a surface failure or other unauthorized discharge, enhancing system performance, relocating the entire system or system components, provided there are no changes in use that would impact the existing system.

**REPAIR OR REPLACEMENT AREA** - An area reserved for the installation of additional wastewater infiltration trenches.

**RESTRICTIVE HORIZON** – A soil horizon that is capable of severely retarding the movement of groundwater or effluent, and may be brittle and cemented with iron, aluminum, silica, organic matter, or other compounds. Restrictive horizons may occur as fragipans, iron pans, organic pans, or shallow rock formations, and are recognized by their resistance in excavation and auger boring.

**RESIN** - Any number of commercially available polyester products used in the manufacture of fiberglass reinforced products which serve to contribute mechanical strength, determine chemical and thermal performance, and prevent abrasion of fibers, and which must be physically and/or chemically determined to be acceptable for the environment, and free from inert filler materials.

**SAPROLITE** – Soft, friable, thoroughly decomposed rock that has formed in place by chemical weathering, retaining the fabric and structure of the parent rock, and being devoid of expansive clay. Unconsolidated saprolite can be dug using a hand auger or knife. Consolidated saprolite cannot be penetrated with a hand auger or similar tool, and must be dug with a backhoe or other powered equipment.

**SEALANT** - A bonding agent specifically designed to bond joining sections of fiberglass reinforced plastic products to each other in such a manner so as to create a durable long lasting, watertight seal, which does not alter the structural integrity or strength of the two joined fiberglass products.

**SEPTIC TANK** - A water-tight, covered receptacle designed and constructed to receive the discharge of domestic wastewater from a building sewer, separate solids from the liquid, digest organic matter, store digested solids through a period of detention and biological conditioning of liquid waste, and allow the effluent to discharge for final treatment and disposal.

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**SERIAL DISTRIBUTION** – A method for effluent distribution on sloping terrain that utilizes drop boxes or earthen dams to affect total sequential flow from upper to lower wastewater infiltration trenches.

**SITE EVALUATION** – Evaluation of the soil, geology, zone of saturation, surface waters, topography, structures and property lines of the proposed location of the onsite wastewater system. The evaluation can be conducted directly by certified Department personnel or the Department may conduct an evaluation through the review of information submitted by a Professional Soil Classifier licensed in the State of South Carolina.

**SOIL STRUCTURE** – The aggregation of primary soil particles (i.e., sand, silt, and clay) into compound particles, or clusters of primary particles, which are separated from the adjoining aggregates by surfaces of weakness. In soils with platy structure, the aggregates are plate-like and overlap one another to severely impair permeability. A massive condition can occur in soils containing considerable amounts of clay when a portion of the colloidal material, including clay particles, tends to fill the pore spaces making the soil very dense.

**SOIL TEXTURE** – The relative proportions of the three soil separates (sand, silt, and clay) in a given sample of soil. The percentages of each separate are used to determine which class a particular sample falls into by plotting the intersection of these three values on the United States Department of Agriculture Natural Resource Conservation Service (USDA-NRCS) Textural Triangle.

**SPECIALIZED ONSITE WASTEWATER SYSTEM DESIGN (less than 1500 GPD)** – An onsite wastewater system that is certified to function satisfactorily and in accordance with all requirements of R.61-56 by virtue of it having been designed by a Registered Professional Engineer licensed in the State of South Carolina with technical input from a Professional Soil Classifier licensed in the State of South Carolina. Such systems have limited application, and can only be utilized when the required engineering design, certification, and technical soils documentation have been provided to and accepted by the Department.

**STANDARD** – A group of requirements developed by the Department that specifies the minimum site conditions and design criteria necessary for the approval of a specific type of onsite wastewater system (i.e., alternative system) that differs from a conventional system. A standard may also address minimum design criteria for certain components of onsite wastewater systems as well as methodologies for determining system sizing.

**STICKINESS** – The capacity of soil to adhere to other objects. Stickiness is estimated in accordance with the Field Book at the moisture content that displays the greatest adherence when pressed between the thumb and forefinger.

**SUBSURFACE WASTEWATER INFILTRATION AREA (DRAIN FIELD)** - A specific area where a network of wastewater infiltration trenches or other devices of sewage application are installed to provide the final treatment and disposal of effluent.

**ULTIMATE TENSILE STRENGTH** - A measure of the resistance of a material to longitudinal stress, measured by the minimum longitudinal stress required to rupture the material.

**UPGRADE/EXPANSION** - Any work performed on an existing onsite wastewater system for the purposes of increasing the capacity of the system above its original design and/or accommodating wastes of a different character than was originally approved.

**WASTEWATER INFILTRATION TRENCH** - A trench installed in the naturally occurring soil that is utilized for the treatment and disposal of domestic wastewater. A conventional trench is characterized by the following: (a) at least twenty-three (23) inches in depth; (b) thirty-six (36) inches in width; (c) filled with aggregate so that at least six (6) inches is beneath the distribution pipe, with at least five (5) inches on both sides of the pipe, and at least three (3) inches covering the pipe; and (d) at least nine (9) inches of backfill. Other trench configurations are specified in the attached Appendices of Standards for Onsite Wastewater Systems.

**WASTEWATER TREATMENT FACILITY** – An accessible publicly or privately owned system of structures, equipment and related appurtenances to treat, store, or manage wastewater.

**ZONE OF SATURATION** – Any zone in the soil profile that has soil water pressures that are zero or positive at some times during the year. For the purpose of this regulation, the beginning of such a zone shall be utilized in determining all required vertical separations from the deepest point of effluent application. This zone, therefore, shall be defined as the shallowest of those points at which either redox depletions of value four (4) or more and chroma two (2) or less appear or gleying is first observed; or, in the absence of other field identification methods, the maximum groundwater elevation as determined by wet season monitoring performed in accordance with criteria approved by the Department.

**B. REFERENCES**

(1) The following statutes referenced in this Regulation are those in force on the effective date of this Regulation:

- (a) 1976 S.C. Code of Laws, Section 44-1-140(11), South Carolina Department of Health and Environmental Control (1976 Code as amended)
- (b) 1976 S.C. Code of Laws, Section 1-23-10 et seq., South Carolina Administrative Procedures Act (1976 Code as amended)
- (c) 1976 S.C. Code of Laws, Section 48-1-10 et seq., South Carolina Pollution Control Act (1976 S.C. Code as amended)
- (d) 1976 S.C. Code of Laws, Section 48-39-10 et seq., South Carolina Coastal Tidelands and Wetlands (1976 S.C. Code as amended)
- (e) Section 208, Federal Clean Water Act, 33 U.S.C. Section 1288
- (f) 1976 S.C. Code of Laws, Section 48-39-280 et seq., South Carolina Coastal Tidelands and Wetlands (1976 Code as amended)
- (g) 1976 S.C. Code of Laws, Section 44-55-1410 et seq., Water and Sewer Facilities in Counties (1976 S.C. Code as amended)
- (h) 1976 S.C. Code of Laws, Section 5-31-2010 et seq., Additional Powers of Municipalities as to Sewage Collection and Disposal (1976 S.C. Code as amended)

(2) The following Departmental Regulations referenced in this Regulation are those in force on the effective date of this Regulation:

- (a) Regulation 61-25, Retail Food Establishments
- (b) Regulation 30-1, Coastal Division Regulations
- (c) Regulation 61-9, Water Pollution Control Permits
- (d) Regulation 61-58, State Primary Drinking Water Regulations
- (e) Regulation 61-67, Standards for Wastewater Facility Construction
- (f) Regulation 61-68, Water Classification and Standards
- (g) Regulation 61-69, Classified Waters

(3) The following manufacturing and procedural standards referenced in this Regulation are those in force on the effective date of this Regulation:

- (a) American Society of Agronomy (ASA)
- (b) American Society for Testing and Materials (ASTM) C
- (c) American Society for Testing and Materials (ASTM) D
- (d) Canadian Standard Association (CSA)
- (e) Crop Science Society of America (CSSA)
- (f) International Association of Plumbing and Mechanical Officials (IAPMO)
- (g) National Building Specification (NBS) Voluntary Product Standard PS 15-69

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- (h) National Electrical Manufacturers Association (NEMA)
- (i) Soil Science Society of America (SSSA)

### **Revise Subsection 102.6 to read:**

102.6 When the actual or estimated peak sewage flow will exceed fifteen hundred (1500) gallons per day, the Department may require that the design of the onsite wastewater system be prepared by a Registered Professional Engineer licensed in the State of South Carolina. A Registered Professional Engineer licensed in the State of South Carolina may also design all onsite wastewater systems where the sewage flow will be less than fifteen hundred (1500) gallons per day. These designs shall include the Soils Report conducted by certified Department personnel or submitted by a Professional Soil Classifier licensed in the State of South Carolina and shall satisfy requirements of Regulation 61-56, Section 415, Appendix O – System Standard 610 – Specialized Onsite System Designs.

### **Revise Subsection 103.3 to read:**

#### 103.3 Approval

(1) Any repair, extension or alteration for which a permit has been issued and all newly constructed onsite wastewater systems may be inspected in accordance with S.C. Code Section 44-55-825.

(2) The licensed system contractor shall also sign a statement that the onsite wastewater system was installed as specified in the Department issued permit.

### **Revise Subsection 200.6(4) to read:**

200.6 The area of the lot or plot of ground where the onsite wastewater system is to be installed shall be of sufficient size so that no part of the system will be:

(4) Within seventy-five (75) linear feet of the delineated critical area line (tidal waters of coastal waters and tidelands critical areas) as determined by the Department's coastal division; or within seventy-five (75) linear feet of the mean high water (within the banks) elevation (non-tidal waters, beach/dune systems and beach critical areas) of an impounded or natural body of water, including streams and canals;

### **Revise Subsection 204.4 to read:**

#### 204.4 Approval For General Use

If warranted, the Department will issue a letter of approval for general use of the alternative infiltration trench product in accordance with equivalency values and other requirements determined herein. At least nine (9) inches of backfill is required unless a lesser amount is approved by the Department.

### **Revise Section 415 by deletion of Subsection (2) and amendment of Subsection (3) and deletion of “county health” in Subsection (5) to read:**

#### 415 APPENDIX O - SYSTEM STANDARD 610 – SPECIALIZED ONSITE WASTEWATER SYSTEM DESIGNS (LESS THAN 1500 GPD)

(1) This Standard shall not apply to the following:

- (a) Projects where two or more pieces of deeded property will share a common system.

(b) Residential or commercial projects where the individual or combined peak sewage flow is estimated to be in excess of fifteen hundred (1500) gpd.

(c) Projects that discharge wastes containing high amounts of fats, grease and oil, including restaurants and other food service facilities, unless the system manufacturer certifies that the proposed system is designed to treat such high strength wastes.

(d) Industrial process wastewater.

(2) A site may be considered for a specialized onsite wastewater system design if written documentation provided by a Professional Engineer licensed in the State of South Carolina, including soil studies performed by a Professional Soil Classifier licensed in the State of South Carolina, indicates that the proposed system will function satisfactorily and in accordance with all requirements of R.61-56. Such substantiating documentation must include the following:

(a) A Soils Report from a Professional Soil Classifier licensed in the State of South Carolina including detailed soil profile descriptions and Soil Series classification(s) utilizing methods and terminology specified in the Field Book for Describing and Sampling Soils; depth to the zone of saturation utilizing methods and terminology outlined in Redoximorphic Features for Identifying Aquic Conditions, and other appropriate principles specified in Soil Taxonomy; the depth to restrictive horizons; and a description of topography and other pertinent land features.

(b) Delineation of any affected jurisdictional wetlands, if applicable. Should any part of the proposed onsite wastewater system be located in jurisdictional wetlands, approval from the appropriate permitting agency(s) {i.e., US Army Corps of Engineers, SCDHEC Ocean and Coastal Resource Management} shall accompany the application for a specialized onsite wastewater system design.

(c) There shall be a replacement area equivalent to at least fifty (50) percent in size of the original system area held in reserve for system repair. This area shall have a suitable configuration, and shall meet the minimum soil and site conditions of R.61-56.

(d) A plan that has been sealed, signed and dated by a Professional Engineer licensed in the State of South Carolina certifying that the proposed onsite wastewater system has been designed in accordance with the requirements of R.61-56 and will function satisfactorily. The plan should also show an area equivalent to at least fifty (50) percent in size of the original system held in reserve for system repair.

(e) The manufacturer's recommendations for operation and maintenance of the system, and the consulting engineer's management plan to meet this.

(3) Any Permit To Construct that is issued pursuant to this standard shall be based upon the consulting engineer's design, certification and other supporting documentation provided by the Professional Soil Classifier.

(4) The consulting engineer shall be responsible for supervising construction of the system and providing the Department with a certified "as built" plan of the actual installation. Any Final Approval that is released pursuant to this standard shall be based upon this engineering certification.

**Revise Subsection 600.4(1) to read:**

**600.4 FORCE MAIN, VALVES, AND FITTINGS**

(1) The force main shall be Schedule 40 PVC, and the diameter shall be sufficient to provide a velocity of at least one (1) ft/sec (effluent) or two (2) ft/sec (raw) using a C Factor of 150 (effluent) or 140 (raw) at the

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minimum pumping rate (peak inflow). The force main shall be installed a minimum of eight (8) inches below the ground surface. Fittings and valves shall be of compatible corrosion resistant material.

**Add Section 900 immediately after the end of the current Section 800 to read:**

### 900 APPENDIX V – THERMOPLASTIC TANKS STANDARD

(1) The Department shall approve plans for thermoplastic tanks on an individual basis.

(a) Thermoplastic tanks shall be certified by an accredited third-party to comply with the most recent edition of IAPMO/ANSI Z1000 or CSA B66.

(b) The uniform liquid depth shall be at least three (3) feet.

(c) The inside length of the tank shall be at least two (2) times the inside width of the tank.

(2) If thermoplastic tanks having other dimensional characteristics are proposed, specifications must be submitted to the Division of Onsite Wastewater Management for approval, and the proposed design must be demonstrated to provide equivalent effectiveness for storage and distribution to that of concrete or thermoplastic tanks described in this regulation.

#### **Fiscal Impact Statement:**

The amendment of Regulation 61-56 will have no anticipated 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:**

The Statement of Need and Reasonableness was determined by staff analysis pursuant to 1976 S.C. Code Section 1-23-115(C) (1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Amendment of R.61-56, Onsite Wastewater Systems.

Purpose: The purpose of the amendments is to update and bring R.61-56 in line with current statutes and current changes in the technologies of design, construction and installation of onsite wastewater systems since the last revision. The amendments include updates in nomenclature and technology, as well as addition of definitions and clarifications of definitions, site requirements and system requirements. Additionally, to upgrade the overall quality and usefulness of the Regulation stylistic changes have been made for improved clarity and consistency.

Legal Authority: 1976 S.C. Code Sections 44-1-140(11), 44-1-150, and 48-1-10 et seq.

Plan for Implementation: Upon approval by the General Assembly and publication in the State Register as the final regulation, a copy of R.61-56, to include these amendments, will be available electronically on the Department's Internet site and subsequently in the Code of Regulations of the S.C. Code of Laws.

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

The amendments are needed and reasonable since they will provide clarification regarding applicability of R.61-56 and provide continued uniformity and consistency with the latest scientific and industry technology changes in onsite wastewater system design, construction and installation.

**DETERMINATION OF COSTS AND BENEFITS:**

Internal Costs: 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 this amendment.

External Costs: There are no anticipated external costs for implementing the amendments to update and clarify the applicability of R.61-56 to current standards for onsite wastewater systems.

External Benefits: The amendments will clarify specific requirements through refined definitions, and improve uniformity and consistency of applications for installation of onsite wastewater systems using updated, uniform and consistent information sources.

**UNCERTAINTIES OF ESTIMATES:**

None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

There is no anticipated negative environmental or public health effects resulting from these amendments.

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

There is no anticipated negative effect on the environment and public health by these amendments.

**Statement of Rationale:**

These amendments were developed in the interest of being uniform and consistent with changes and updates in the technology applicable to onsite wastewater systems. The clarification of terminology and nomenclature that affects the understanding of the requirements for the installation of onsite wastewater systems will help the industry. The continued protection of the environment and public health with these amendments to R.61-56 will benefit the citizens of South Carolina who utilize onsite wastewater systems for sewage disposal.

Document No. 4578

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

Statutory Authority: 1976 Code Sections 44-61-510 et seq.

61-116. South Carolina Trauma Care Systems.

**Synopsis:**

Regulation 61-116 was promulgated in 2009. The amendments herein include the Department’s effort to incorporate updates and clarification relating to designation criteria as published by the American College of Surgeons, reporting requirements, standards of care, enforcement provisions, staffing requirements, and facility design and construction. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

A Notice of Drafting was published in the *State Register* on March 27, 2015.



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### Section-by-Section Discussion of Amendments

Statutory authority for this regulation was added under the title of the regulation and before the table of contents.

#### TABLE OF CONTENTS

The table was revised to reflect the amendments.

#### **61-116.100. Scope**

Section 100 has been deleted as the statutory authority has been relocated before the table of contents.

#### **61-116.100. Definitions (formerly 61-116.201)**

The definitions of 100.K Glasgow Coma Scale, 100.L Hospital, 100.P Level I Pediatric, 100.R Level II Pediatric, and 100.T Level IV were added. The definitions of 100.A (formerly 201.2) Bypass, 100.B (formerly 201.3) Certificate, 100.C (formerly 201.4) Certificate Holder, 100.E (formerly 201.7) Designation, 100.G (formerly 201.10) Emergency Medical Services, 100.H (formerly 201.11) Emergency Medical Services Advisory Council, 100.N (formerly 201.15) Injury Prevention, 100.O (formerly 201.16) Level I, 100.Q (formerly 201.17) Level II, 100.S (formerly 201.18) Level III, 100.V (formerly 201.20) Medical Control, 100.X (formerly 201.22) Performance Improvement, 100.BB (formerly 201.28) Revocation of Certificate, 100.CC (formerly 201.29) South Carolina Trauma Plan, 100.FF (formerly 201.32) State Trauma Registry, 100.GG (formerly 201.33) Suspension of Certificate, 100.HH (formerly 201.35) Trauma, 100.II (formerly 201.36) Trauma Care Facility, 100.JJ (formerly 201.37) Trauma Care Region, 100.LL (formerly 201.41) Trauma Patient, 100.NN (formerly 201.43) Trauma Program Manager, 100.OO (formerly 201.44) Trauma Service Director, and 100.SS (formerly 201.48) Verification have been amended. The definitions of 201.1 ACS, 201.5 CRNA, 201.8 Diversion, 201.23 Performance Improvement Plan, 201.27 Residency Program, 201.34 TAC, 201.39 Trauma Center, and 201.40 Trauma Center Designation have been deleted. The remaining definitions were renumbered to adjust the codification.

#### **61-116.202. References**

Section 202 has been deleted as this section is no longer necessary.

#### **61-116.200. DESIGNATION PROCESS (formerly 61-116.300)**

Section number has been amended to adjust the codification.

#### **61-116.301. General**

Section 301 has been deleted.

#### **61-116.201. Eligibility for Designation (formerly 61-116.302)**

Section 201.A (formerly 302.A) has been amended to refer to emergency service. Section 201.B (formerly 302.B) has been amended to require hospitals applying for designation or renewal of designation after July 1, 2018, to obtain an American College of Surgeons (ACS) verification. Section 302.C has been deleted.

#### **61-116.202. Application Process**

Section 202.A was added to require a facility seeking designation to submit to the Department a completed application and Pre-Review Questionnaire (PRQ). Sections 202.B and 202.C were added to delineate the required contents of the application. Section 202.D was added stating that the application shall be considered public information at the conclusion of the designation process, subject to state and federal laws. Section 202.D also states that the PRQ is not considered public information and shall not be disclosed publicly. Section 202.E requires that all applicants prior to July 1, 2018, select either a state or ACS visit and all applicants after July 1, 2018, undergo a site visit by an ACS team accompanied by a Department representative.

**61-116.203. Designation Renewal (formerly 61-116.303)**

Section 203.A was added requiring all designations prior to July 1, 2018, to be renewed every five (5) years, unless directed otherwise by the Department. Section 203.B was added requiring all designations after July 1, 2018, to be renewed at timeframes as required by the ACS. Section 203.C was added to require that any facility designated prior to July 1, 2018, be designated for a period of five (5) years.

**61-116.204. Categories of Designation (formerly 61-116.304)**

Section 204.A (formerly 304.A) was amended stating that designations available are the adult and pediatric designations in Chapter 2 of the 2014 ACS “Resources for Optimal Care of the Injured Patient.” Section 204.B (formerly 304.B) was amended to allow for full or provisional designation. Section 204.C was added to delineate the requirements for provisional designation prior to July 1, 2018. Section 204.D was added to allow hospitals to submit an Application for Request of a Waiver prior to the state site visit.

**61-116.305. Application Process**

This section was deleted and incorporated into new Section 202.

**61-116.205. Designation (formerly 61-116.306)**

New Section 205.A was added to require that any new hospital desiring to become a trauma center prior to July 1, 2018, provide to the Department a completed PRQ. New Section 205.B was added to require that any hospital seeking designation after July 1, 2018, provide to the Department an ACS verification notice. New Section 205.C was added to prescribe the timeline for submission of the PRQ.

**61-116.206. Site Review**

New Section 206 was added to delineate the requirements and duties of the site review.

**61-116.207. Review Team Composition**

Section 207.A was added to delineate the composition of the review team. Section 207.B was added to require that the composition of site visit teams, if required for follow up on facilities with provisional designation, be determined by the Department with consideration of recommendations made by TAC. Section 207.C requires that there be no conflict of interest between any inspection team member and the hospital seeking designation. Section 207.D was added to require the center seeking designation to cover all costs of the review team. Section 207.E was added to prescribe the review team requirements for facilities seeking designation prior to July 1, 2018.

**61-116.208. Protocol for Inspections**

Section 208 was added to prohibit any personnel or representatives of the applicant from having any contact with any onsite review team member.

**61-116.209. Content of Inspections**

Section 209 was added to delineate the content of inspections as performed by the onsite review team.

**61-116.210. Designation Criteria**

Section 210.A was added to require trauma center levels to be granted in accordance with the designation criteria of the 2014 ACS “Resourced for Optimal Care of the Injured Patient.” Section 210.B was added to require that ten (10) charts be reviewed by the site review team. Section 210.C was added to require that the charts reviewed by the review team be in accordance with the latest ACS Review Agenda.

**61-116.211. Designation Process**

Section 211.A was added to allow for a draft report to provide feedback to the facility prior to the official written report. Section 211.B was added to allow the review team to submit their recommendation to the Department within ninety (90) days. Section 211.C was added to require that the final report be sent to the Trauma Program Manager, Trauma Medical Director, and Administrator as identified on the application. Section 211.D.1 was amended to refer to pre-review questionnaire. Section 211.E was added to prescribe the process for final

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determination of designation. Section 211.F was added to require hospitals requesting designation after July 1, 2018, to submit a letter of verification from the ACS. Section 211.H was added to require that prior to July 1, 2018, trauma centers requesting an ACS consultation or verification visit include a Department representative to participate in the site visit.

### **61-116.212. Process of Re-designation (formerly 61-116.307)**

Section 212.A (formerly 307.A) was amended to require the designation interval after July 1, 2018, to coincide with the ACS verification cycle and not to exceed three (3) years. Section 212.C was added to require the hospital seeking re-designation to follow the application procedure of Section 202. Section 212.D was added to require facilities seeking re-designation to follow the designation process of Section 211. Section 212.E (formerly 307.C) was amended to remove the word significant. Section 307.D was deleted.

### **61-116.308. Appeals from Decision for Designation or Non-Designation**

This section was deleted as it is no longer necessary.

### **61-116.213. Change in Trauma Center Designation Status (formerly 61-116.309)**

Section 213.B.1 (formerly 309.B.1) was amended to require that a designated trauma center notify the Department within ten (10) calendar days if it is unable to provide the level of care or services for its level of designation, the reasons, and plans to correct. Section 213.C (formerly 309.C) was amended to require that if a trauma center chooses to apply for a lower level of designation, they shall follow the procedures listed in the application and designation process in accordance with this regulation, and may have an onsite visit upon recommendation by the TAC.

### **61-116.214. Public Notification of Trauma Center Designation Status (formerly 61-116.310)**

Section 214.B (formerly 310.B) has been amended to delineate confidentiality requirements of the inspection team records and reports.

### **61-116.300. CERTIFICATE OF DESIGNATION REQUIREMENTS (formerly 61-116.400)**

This section number was amended to adjust the codification.

### **61-116.301. Certification Requirements (formerly 61-116.401)**

Section 301.A (formerly 401.A) was amended to add that false representation as a trauma center may result in monetary penalties as determined by the Department. Section 401.C has been deleted. The remaining sections were renumbered to adjust the codification.

### **61-116.302. Issuance and Terms of the Certificate of Designation (formerly 61-116.402)**

Section 402.B has been deleted. Section 302.D (formerly 402.E) was amended to state certificates shall be effective until the Department notifies the holder otherwise or until expiration of such certificate. Section 302.D (formerly 402.E) was further amended to state that certificates issued after July 1, 2018, shall expire on the date of expiration of the ACS verification. The remaining sections have been renumbered to adjust the codification.

### **61-116.303. Exceptions to the Standards (formerly 61-116.403)**

This section was renumbered to adjust the codification.

### **61-116.400. ENFORCEMENT OF REGULATIONS (formerly 61-116.500)**

Section title was amended for clarity and section was renumbered to adjust the codification.

### **61-116.401. General (formerly 61-116.501)**

Section 401 (formerly 501) was amended to delineate the items the Department may review in enforcing the regulation.

**61-116.402. Inspections and Investigations (formerly 61-116.502)**

Section 402.A (formerly 502.A) has been amended to reference the appropriate sections. Section 402.C (formerly 502.C) has been amended for clarity. Section 402.D (formerly 502.D) has been amended for clarity and form. Section 402.F (formerly 502.F) was amended to include the TAC in required confidentiality of records and reports developed pursuant to onsite reviews. Section 402.G (formerly 502.G) has been deleted as this provision is covered in Section 303.

**61-116.503. Inspection Report for Designation**

This section was deleted as these requirements have been incorporated into other sections within the regulation.

**61-116.504. Inspection Team Composition**

This section was deleted as these requirements have been incorporated into other sections within the regulation.

**61-116.505. Protocol for Inspections**

This section was deleted as these requirements have been incorporated into other sections within the regulation.

**61-116.506. Content of Inspection**

This section was deleted as these requirements have been incorporated into other sections within the regulation.

**61-116.403. Investigation Procedures (formerly 61-116.507)**

Section 403.B (formerly 507.B) was amended to state that all designated trauma centers and EMS providers are subject to investigation at any time without prior notice by individuals authorized by the Department. Section 403.C was added to allow examination of equipment, vehicles, physical plant, and records by an authorized representative of the Department. The remaining sections have been renumbered to adjust the codification.

**61-116.500. ENFORCEMENT ACTIONS (formerly 61-116.600)**

Section was renumbered to adjust the codification.

**61-116.501. General (formerly 61-116.601)**

Section 501 (formerly 601) title was amended for clarity and consistency. Section 501.A (formerly 601.A) was amended to allow enforcement for failure to comply with designation criteria and/or failing to comply with previously approved corrective plans.

**61-116.502. Violation Classifications (formerly 61-116.602)**

Sections 502.A (formerly 602.A), 502.B (formerly 602.B), and 502.C (formerly 602.C) were amended for clarity. Section 502.D.5 (formerly 602.D.5) was deleted. Section 502.E (formerly 602.E) was amended to delineate the monetary penalties. Section 602.F was deleted. The remaining sections were renumbered to adjust the codification.

**61-116.600. STAFFING (formerly 61-116.700)**

This section was renumbered to adjust the codification. Section 600.A (formerly 700.A) has been amended to require trauma centers to have adequate staff, physicians, Trauma Program Manager, and Registrar and to delineate the applicable edition of the ACS "Resources for Optimal Care of the Injured Patient." Section 600.B (formerly 700.B) was amended to include the applicable edition of the ACS "Resources for Optimal Care of the Injured Patient."

**61-116.700. FACILITY, EQUIPMENT, AND CARE REQUIREMENTS (formerly 61-116.800)**

Section title was amended for clarity and section renumbered to adjust the codification.

**61-116.701. Physical Facilities (formerly 61-116.801)**

Section 701 (formerly 801) was amended to delineate the applicable edition of the ACS "Resources for Optimal Care of the Injured Patient."

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### **61-116.702. Trauma Care of the Patient (Transfers) (formerly 61-116.802)**

Section 702 (formerly 802) was amended to clarify the requirements for transferring patients from non-designated trauma centers to appropriate level trauma centers.

### **61-116.703. Trauma Care Services (formerly 61-116.803)**

Section 703.A (formerly 803.A) was amended to delineate the applicable edition of the ACS “Resources for Optimal Care of the Injured Patient.”

## **61-116.800. TRAUMA TRIAGE AND TRANSPORT GUIDELINES**

This new section was added to delineate the requirements for triage and transport of trauma patients.

### **61-116.801. Purpose**

Section 801 was added to require that triage and transport guidelines be established using the 2011 version of the Center for Disease Control’s “Guidelines for Field Triage of Injured Patients.”

### **61-116.802. Required Participation**

Section 802 was added to require that all licensed EMS providers utilize the Department’s trauma triage and transport guidelines and allow EMS providers to edit the guidelines to identify local trauma centers.

### **61-116.803. Required Transport**

Section 803 was added to require EMS personnel to transport trauma patients directly to a trauma center qualified to provide appropriate care unless one (1) or more of the exceptions prescribed therein apply.

### **61-116.804. Triage Tag System**

Section 804 was added to implement the triage tag system. The initial supply of tags shall be provided by the Department on a first come first served basis and it shall be the responsibility of each agency to replenish their supply as necessary.

### **61-116.901. General**

Section 901 was amended for clarity and form.

### **61-116.902. Grievance and Complaints**

Section 902.B was added to delineate the process of complaints upon receipt by the Department. The remaining sections were renumbered to adjust the codification.

### **61-116.1001. Purpose of Trauma Registry**

Section 1001.A was amended to state that the data elements collected in the state registry shall be determined by the Department with collaboration from the TAC and defined in the data dictionary. Section 1001.C was added to allow any South Carolina hospital to participate in submitting to the Trauma Registry. Section 1001.D was added to provide the current data dictionary to all trauma centers to defined required data points.

### **61-116.1002. Requirement to Submit Data**

Section 1002.A.2 was added to require designated trauma centers to submit data to the National Trauma Data Bank. Section 1002.A.3 (formerly 1002.A.2) was amended to delineate the timeframe for submitting data to the Department. Section 1002.C has been deleted.

### **61-116.1003. Inclusion and Exclusion Criteria**

Section 1003 has been amended to require that inclusion and exclusion criteria shall be maintained in the state data dictionary and shall include, at a minimum, information and data points required by the National Trauma Data Bank.

**61-116.1004. Confidentiality Protection of Data and Reports**

Section 1004 was amended to allow for distribution of reports that do not contain protected health information or any identifiable information and to require that such reports show only general information and not identify any protected information or hospital information.

**61-116.1201. Eligible Recipients of Fund**

Section 1201 was amended to include Regional Trauma Councils as eligible recipients of trauma care funds appropriated by the South Carolina General Assembly.

**61-116.1202. Allocation of Fund**

Section 1202 was amended to delete various items and consolidate them into one section. Section 1202 was further amended to include Regional Trauma Councils in the funds allocation and to allow for distribution of funds after Department operating expenses. Section 1202 was amended to also include workgroups of the TAC.

**61-116.1300. PERFORMANCE IMPROVEMENT PROGRAMS**

The title of Section 1300 has been amended for clarity.

**61-116.1301. General**

Section 1301 was amended for clarity.

**61-116.1302. Statewide Trauma System Performance Improvement Plan**

Section 1302 was amended to include workgroups of the Trauma Advisory Council.

**61-116.1303. Trauma Center Performance Improvement Plan**

Section 1303 was amended to require that records include the process for identification and review, documentation or disposition of issues found, and summaries of changes implemented to include, but not be limited to, patient care practice, policies, and/or operating procedures.

**61-116.1304. Performance Improvement and Feedback**

Section 1304 was added to require trauma centers to develop functional relationships with all potential referring facilities, provide feedback, and identify any process issues and create a written cooperative plan when needed.

**61-116.1401. State Trauma Advisory Council**

Section 1401.B was amended for grammar. Section 1401.B.1, 1401.B.3, and 1401.B.4 have been amended for clarity.

**61-116.1402. Medical Control Committee**

Section 1402.A was amended for clarity.

**61-116.1500. TRAUMA TRIAGE AND TRANSPORT GUIDELINES**

Section 1500 and remaining subsections have been deleted as these requirements were incorporated into new Section 800.

**61-116.1500. TRAUMA SYSTEM PLANS (formerly 61-116.1600)**

Section was renumbered to adjust the codification.

**61-116.1501. General (formerly 61-116.1601)**

Section 1501.A (formerly 1601.A) was amended to require input from the TAC and its working group in establishing a state trauma plan. Section 1501.D (formerly 1601.E) was amended for clarity. Section 1601.D was deleted.

**61-116.1602. Trauma Regions**

Section 1602 has been deleted as this section is no longer necessary.

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### **61-116.1502. Trauma Center Internal Disaster Plan (formerly 61-116.1603)**

Section 1502 (formerly 1603) has been amended to require that the internal disaster plan for the trauma center be made available to the site survey team at the time of their visit.

### **61-116.1600. SEVERABILITY (formerly 61-116.1700)**

Section was renumbered to adjust the codification.

### **61-116.1700. GENERAL**

Section 1700 was added to state that conditions not addressed in this regulation shall be managed in accordance with the best practices as determined by the Department.

#### Section-by-Section Discussion of Non-Substantive Amendments

### **61-116.100. Definitions (formerly 61-116.201)**

In Section 100.X (formerly 201.22), the definition of Performance Improvement and Patient Safety (PIPS) was amended to Performance Improvement (PI) Programs. This change was made in order to remain consistent throughout the regulation as the term Performance Improvement (PI) Programs is the preferred nomenclature that is utilized in the text of the regulation.

### **61-116.201. Eligibility for Designation (formerly 61-116.302)**

Section 201.B (formerly 302.B) previously referred to “[a]ny South Carolina licensed hospital seeking initial designation or renewal designation...” This section has been amended to refer to any South Carolina licensed hospital “applying for initial designation or renewal designation...” This non-substantive change was made for clarity.

### **61-116.207. Review Team Composition**

The word “and” was removed from Section 207.A.2 and relocated to the end of Section 207.A.1 in an effort to clarify that Sections 207.A.1 and 207.A.2 indicate the required composition of the review team. Section 207.A.3 only applies to review teams prior to July 1, 2018, and therefore is not necessarily required for all review teams at all times.

### **61-116.402. Inspections and Investigations (formerly 61-116.502)**

Section 402.G was deleted as the exceptions clause is covered previously in Section 303. Therefore Section 402.G was removed as duplicative.

### **61-116.403. Investigation Procedures (formerly 61-116.507)**

The word “preliminary” was deleted from Section 403.D (formerly 507.C) to provide clarity to the Department’s investigation procedures.

### **61-116.600. STAFFING (formerly 61-116.700)**

Section 600.A (formerly 700.A) was amended to remove the second “necessary” for clarity and concise wording.

### **61-116.702. Trauma Care of the Patient (Transfers) (formerly 61-116.802)**

Section 702 (formerly 802) was amended to require that plans be developed in collaboration with the receiving trauma centers and may include specific crew configuration for transport. This non-substantive change removed “input from” from this sentence as it was redundant with the requirement of collaboration already in place.

**Instructions:** Replace Regulation 61-116, South Carolina Trauma Care Systems, in its entirety.

**Text:**

61-116. South Carolina Trauma Care Systems.

Statutory Authority: S.C. Code Sections 44-61-510 et seq.

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## **SECTION 100**

### **DEFINITIONS**

A. Bypass. A medical protocol or request for the transport of an EMS patient past a normally used EMS receiving facility to an alternate medical facility for the purpose of accessing more readily available or appropriate medical care.

B. Certificate. A document issued by the Department to a hospital that denotes the trauma designation level thereof, as determined by the Department subject to the provisions of this regulation.

C. Certificate Holder. The hospital that has received a certificate to provide trauma care from the Department and with whom rests the ultimate responsibility for compliance with this regulation.

D. Department. The South Carolina Department of Health and Environmental Control (DHEC).

E. Designation. The formal determination by the Department that a hospital is capable of providing a specified level of trauma care services.

F. Emergency Department. The area of a licensed general acute care hospital that customarily receives patients in need of emergency medical evaluation and/or care.

G. Emergency Medical Services (EMS). The treatment and transport of patients in crisis health situations, occurring from a medical emergency or from an accident, natural disaster, or similar situation, that may be life threatening, through a system of coordinated response and emergency medical care.

H. Emergency Medical Services Advisory Council. Emergency Medical Services council created pursuant to S.C. Code Section 44-61-30(C).

I. Facility. A trauma center having a certificate of designation by the Department.

J. Field Triage. Classification of patients according to medical need at the scene of an injury or onset of an illness.

K. Glasgow Coma Scale. A standardized system for assessing response to stimuli in a neurologically impaired patient by assessing eye opening, verbal responsiveness, and motor ability.

L. Hospital. A facility licensed by the Department and organized and administered to provide medical or surgical care or nursing care of illness, injury, or infirmity and in which all diagnoses, treatment, or care is administered by or under the direction of persons currently licensed to practice medicine, surgery, or osteopathy.

M. Injury. The result of an act that damages, harms, or hurts; unintentional or intentional damage to the body resulting from acute exposure to thermal, mechanical, electrical or chemical energy or from the absence of such essentials as heat or oxygen.

N. Injury Prevention. Efforts to reduce or prevent incidents that might result in injuries.

O. Level I. Hospitals that have met the requirements for Level I as stated in Section 204 of this regulation and are designated by the Department.

P. Level I Pediatric. Hospitals that have met the Level I criteria along with the required pediatric criteria, and are designated as "Level I Pediatric" by the Department.

Q. Level II. Hospitals that have met the requirements for Level II as stated in Section 204 of this regulation and are designated by the Department.

R. Level II Pediatric. Hospitals that have met the Level II criteria along with the required pediatric criteria, and are designated as "Level II Pediatric" by the Department.

S. Level III. Hospitals that have met the requirements for Level III as stated in Section 204 of this regulation and are designated as "Level III" by the Department.

T. Level IV. Hospitals that have met the requirements for Level IV and are designated as "Level IV" by the Department.

U. Licensed Nurse. An individual licensed by the South Carolina Board of Nursing as a registered nurse or licensed practical nurse.

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V. Medical Control. On-line or off-line physician direction over pre-hospital activities to ensure efficient and proficient trauma triage, transportation, and care, as well as ongoing quality assurance.

W. Participating Providers. Those providers who have been approved by the Department for participation in the trauma system and include, but are not limited to, designated trauma centers, designated rehabilitation facilities, and designated fee-for-service physicians who provide trauma care within a designated facility.

X. Performance Improvement (PI) Programs. A method of monitoring, evaluating and improving processes of patient care that emphasizes a multidisciplinary approach to problem solving. These activities are concordant with the Institute of Medicines six (6) quality aims for patient care: safe, effective, patient-centered, timely, efficient, and equitable. (ACS P.114).

Y. Physician. An individual currently licensed as such by the South Carolina Board of Medical Examiners.

Z. Rehabilitation. Services that seek to return a trauma patient to the fullest physical, psychological, social, vocational, and educational level of functioning of which he or she is capable, consistent with physiological or anatomical impairments and environmental limitations.

AA. Repeat Violation. The recurrence of any violation cited under the same section of the regulation.

BB. Revocation of Certificate and Designation. An action by the Department to cancel or annul a certificate and designation by recalling, withdrawing, or rescinding its authority to operate.

CC. South Carolina Trauma Plan. An organized plan developed by the Department pursuant to legislative directive that sets out a comprehensive system of prevention, management, and rehabilitation of traumatic injuries.

DD. State Medical Director (or "State Medical Control Physician"). A South Carolina board-certified physician responsible for providing medical oversight to the Department.

EE. State Trauma Advisory Council (or "TAC"). The Department's advisory committee regarding trauma related issues.

FF. State Trauma Registry. A statewide database of information collected by the Department including, but not limited to, the incidence, severity, and causes of trauma and the care and outcomes.

GG. Suspension of Certificate and Designation. An action by the Department terminating the certificate holder's authority to provide trauma care services for a period of time until such time as the Department rescinds that restriction.

HH. Traumatic Injury. Injury or wound to a person caused by the application of an external force or by violence and requiring medical or surgical intervention to prevent death or disability. For the purposes of this regulation, the definition of "trauma" shall be determined by current national medical standards including, but not limited to, injury severity scales.

II. Trauma Care Facility (or "trauma center"). A hospital designated by the Department to provide trauma care services at a particular level.

JJ. Trauma Care Region. A geographic area of the state formally organized in accordance with standards promulgated by the Department and is coterminous with the Department EMS regions.

KK. Trauma Care System. An organized statewide and regional system of care for the trauma patient, including the Department, emergency medical service providers, hospitals, in-patient rehabilitation providers,

and other providers who have agreed to participate in and coordinate with and who have been accepted by the Department in an organized statewide system.

LL. Trauma Patient. A patient who presents with acute bodily injuries secondary to an external force requiring immediate intervention deemed necessary to preserve life and limb.

MM. Trauma Program. An administrative unit that includes the trauma service and coordinates other trauma-related activities, including, but not limited to, injury prevention and public education.

NN. Trauma Program Manager. A designated individual with responsibility for coordination of all activities of the trauma program who works in collaboration with the trauma medical director.

OO. Trauma Medical Director. A physician designated by the facility and medical staff to coordinate trauma care.

PP. Trauma System Fund. The separate fund established pursuant to this regulation for the Department to create and administer the State Trauma System.

QQ. Trauma Team. A group of health care professionals organized to provide coordinated and timely care to the trauma patient.

RR. Triage. The process of sorting injured patients on the basis of the actual or perceived degree of injury and assigning them to the most effective and efficient regional care resources in order to insure optimal care and the best chance of survival.

SS. Verification. The inspection of a participating facility in order to determine whether the facility is capable of providing a designated level of trauma care.

## SECTION 200

### DESIGNATION PROCESS

#### **201. Eligibility for Designation (II)**

A. Any South Carolina licensed hospital with a functioning emergency service may apply for trauma center designation.

B. Any South Carolina licensed hospital applying for initial designation or renewal designation after July 1, 2018, shall obtain an American College of Surgeons (ACS) verification.

#### **202. Application Process**

A. A facility seeking designation shall submit to the Department a completed application and Pre-Review Questionnaire (PRQ). The application shall include the applicant's oath assuring that the contents of the application and PRQ are accurate and true and that the applicant will comply with this regulation. The application shall be authenticated as follows:

1. The application shall be signed by the owner(s) if an individual or partnership;
2. If the applicant is a corporation, the application shall be signed by two (2) of its officers;
3. If the applicant is a governmental unit, the application shall be signed by the head of the governmental unit having jurisdiction.

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B. The application shall set forth the full name and address of the facility for which the designation is sought, the name and address of the owner of the facility in the event that his or her address is different from that of the facility, and a list of essential program personnel. In the event of a change in the owner of the facility and/or essential program personnel, the Department shall be notified in writing within forty-eight (48) hours of the change.

C. The Department may require additional information evidencing the applicant's ability to comply with this regulation. Corporations or partnerships shall be registered with the South Carolina Office of the Secretary of State. Other required information may also include, but is not limited to, written affirmation of compliance with all applicable federal Occupational Safety and Health Association (OSHA) requirements or guidelines.

D. The application shall be property of the Department and shall be considered public information at the end of the designation process, subject to state and federal laws. The PRQ shall be confidential in accordance with S.C. Code Section 44-61-520.

E. All applicants prior to July 1, 2018, shall select either a state or ACS site visit. All applicants after July 1, 2018, shall undergo a site visit by an ACS team accompanied by a Department representative.

### **203. Designation Renewal**

A. Prior to July 1, 2018, unless directed otherwise by the Department, all designations shall be renewed every five (5) years by application in accordance with Section 202.

B. After July 1, 2018, the trauma center shall renew their designation requirements at timeframes as required by the ACS and in accordance with Section 202.

C. Any facility designated prior to July 1, 2018, shall be designated for a period of five (5) years.

### **204. Categories of Designation**

A. The designations available are the adult and pediatric designations listed in Chapter 2 of the 2014 ACS "Resources for Optimal Care of the Injured Patient."

B. Until July 1, 2018, a trauma center may be granted full designation or provisional designation. Designation levels are granted based on the factors prescribed in the 2014 ACS "Resources for Optimal Care of the Injured Patient."

C. Prior to July 1, 2018, applicants may obtain provisional designation at any of the levels prescribed in Section 204.A. To receive provisional designation status, a hospital shall have no more than one (1) Type I deficiency and/or no more than five (5) Type II deficiencies.

1. Provisional designation may be granted for a period not to exceed one (1) year except as granted by the Department. The Trauma Advisory Council shall provide oversight during the provisional period.

2. Provisional trauma centers shall have a written work plan of objectives to rectify deficiencies and to demonstrate progress on the work plan throughout the one (1) year designation period.

3. At the end of the provisional designation period, the Department may grant full designation, extend the provisional period, or suspend the trauma center for cause.

D. A hospital may submit an Application for Request of a Waiver prior to the state site visit.

**205. Designation**

The designation processes delineated herein are the same regardless of designation level sought, including pediatric.

A. Prior to July 1, 2018, after receipt and acceptance of the application, the Department shall provide a Pre-Review Questionnaire (PRQ) to the hospital seeking designation which shall be completed and returned to the Department in accordance with Section 205.C. The information in the PRQ shall be reviewed by the Department and team prior to the site visit, and the information provided in the PRQ by the hospital shall be verified by the site review team. Any misrepresentation and/or false information provided by the hospital in the PRQ is grounds for denial of designation.

B. After July 1, 2018, any new hospital that wishes to become a trauma center, and any existing trauma center wishing to renew its designation, shall be required to provide to the Department an American College of Surgeons (ACS) verification notice. The hospital shall notify the Department prior to the associated ACS visit. A Department representative shall conduct a state verification simultaneously.

C. The PRQ shall be submitted no later than thirty (30) days prior to the scheduled site visit.

**206. Site Review**

A. The Department will work with the hospital requesting designation to establish a date for a designation site visit. All costs associated with the site visit and team expenses, excluding costs associated with Department personnel, are the responsibility of the applicant.

B. The onsite review for designation shall be conducted by the review team verifying the requirements for designation.

C. Any facility wishing to become a trauma center, or remain a trauma center after July 1, 2018, shall undergo the ACS verification process. Centers current as of July 1, 2018, shall obtain ACS verification prior to the expiration of their state designation. No extensions shall be granted for failure to schedule appropriately.

**207. Review Team Composition**

A. The review team shall include, but not be limited to:

1. Two (2) general surgeons (at least one (1) pediatric surgeon for pediatric facilities), who do not live or work in the same state as the applicant and who currently work in a designated trauma center and who are a FACS or member of the ACS; and

2. A Department representative.

3. Prior to July 1, 2018, additional members may be assigned at the discretion of the Department or request of the facility. Any additional cost(s), with the exception of costs for Department representative(s), shall be the responsibility of the facility.

B. The composition of site visit teams, if required for follow up on facilities with provisional designation, shall be determined by the Department with consideration of recommendations made by the TAC.

C. There shall be no demonstrable conflict of interest between any inspection team member and the hospital for which the team member has been selected. The hospital applying for designation shall be provided with the reviewer's information. The hospital shall notify the Department in writing within three (3) business days of any

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conflict or if they wish to reject a reviewer. After 5:00 p.m. on the third (3rd) day, the team shall be secured and no objections may be submitted.

D. The cost of the team shall be the responsibility of the applying facility and includes meals, lodging, transportation, and honorarium.

E. Prior to July 1, 2018, hospitals applying for designation may, at its own discretion and its own expense, request a verification site inspection by representatives of the American College of Surgeons or any other national organization having standards that are, at a minimum, equal to the criteria set forth in this regulation. The composition of the site visit team, if other than the state, shall be subject to the discretion of the entity utilized. If a hospital wishes to use an outside agency and intends to submit their recommendation to the state for designation, a Department representative shall be present for the entire visit. The Department may accept the findings of the verification site visit or may request additional information as necessary to ensure that the hospital meets the criteria set forth in this regulation.

### **208. Protocol for Inspections**

The applicant's administration, faculty, medical staff, employees and representatives shall not have any contact with any onsite review team member in regards to the designation process after the announcement of the team members and prior to the onsite review, except as authorized by the Department. A violation of this provision may be grounds for denying the applicant's proposal as determined by the Department. If a review team member contacts the facility representative directly for information, the facility may respond as requested and shall notify the Department.

### **209. Content of Inspection**

The onsite review team shall evaluate the appropriateness and capabilities of the applicant to provide trauma care services and validate the hospital's ability to meet the responsibilities, equipment, and performance standards for the level of designation sought and to meet the overall needs of the trauma system in that region. Any evidence of inadequate performance or trauma patient care shall be presented to the TAC and this alone is grounds for denial of designation or re-designation.

### **210. Designation Criteria**

A. The Department shall use the designation criteria of the 2014 ACS "Resources for Optimal Care of the Injured Patient" for each trauma center level. These provisions apply to all designation levels, including pediatric.

B. As part of the designation process and site review, the review team shall perform a comprehensive chart review. At least ten (10) charts shall be reviewed by the site review team. All site team members shall review charts.

C. The charts reviewed by the review team shall be in accordance with the latest ACS Review Agenda.

### **211. Designation Process**

A. Prior to completion of the site visit, the team shall meet and develop a draft report and provide feedback to the facility. The format shall be the same as the official written report.

B. On completion of the site visit, the team shall have ninety (90) days to submit a written report of their recommendation to the Department. The report shall include deficiencies listed by criteria number, opportunities (shall not be counted as deficiencies and shall not be used in consideration of designation status), strengths, and recommendations.

C. Within thirty (30) days of receipt of the written report from the site review team, the report shall be forwarded to the TAC, or appropriate subcommittee, to review for the purpose of providing the Department a recommendation. The final report shall also be forward to the facility at the same time. The report shall be sent to the hospital Trauma Program Manager, Trauma Medical Director, and Administrator as identified on the application.

D. As soon as practical, but no later than ninety (90) days after receipt of the onsite report document, the TAC, or subcommittee of the TAC, shall make written recommendations to the Department regarding trauma center designation based on:

1. Evaluation of the pre-review questionnaire;
2. Evaluation of deficiencies, including deficiencies in trauma patient care, and supporting statements from the onsite review team; and
3. The ability of each hospital to demonstrate compliance with the designation criteria at the level of designation they are seeking.

E. The Department shall make the final determination of designation regarding each application and shall consider all pertinent facts, the final survey report, and the recommendation of the TAC.

F. After July 1, 2018, a hospital requesting designation shall submit to the Department a letter of verification from the American College of Surgeons. Any hospital not obtaining ACS verification shall be denied South Carolina designation. Hospitals denied designation or whose designation was suspended or revoked shall wait a period of no less than six (6) months after the written decision prior to resubmitting an application. However, there is no waiting period if the hospital seeks a designation level lower than the denied, suspended, or revoked designation.

G. With the recommendation of the State Trauma Advisory Council, the Department shall notify the hospital of its decision regarding designation at the level requested by the hospital.

H. Prior to July 1, 2018, trauma centers requesting an ACS consultation or verification visit shall include a Department representative to participate in the site visit, as written in this regulation. The Department may utilize the visit and final report to designate the trauma center based on these regulations for state designation.

## **212. Process of Re-designation**

A. Scheduled re-designation inspections of currently designated trauma centers shall occur in an interval no greater than five (5) years. After July 1, 2018, the designation interval shall coincide with the ACS verification cycle and shall not exceed three (3) years.

B. Designated trauma centers shall be notified by the Department within six (6) months of the trauma center's scheduled date for the submission of the application for re-designation.

C. The hospital shall follow the application procedure outlined in Section 202.

D. All hospitals requesting re-designation shall follow the designation procedures outlined in Section 211.

E. If a change in the designated trauma center's staffing or resource capabilities occurs at any time during the trauma center's designation period, an inspection may be conducted by the Department as needed to ensure compliance with the regulatory requirements. If such inspection reveals that the trauma center may not be meeting regulatory requirements, the Department may require that the trauma center undergo a complete trauma center re-designation verification inspection prior to the next scheduled re-designation date.



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### **213. Change in Trauma Center Designation Status**

A. A designated trauma center shall have the right to withdraw as a trauma center or to request a designation lower than its current designation level by giving a ninety (90) day written notice to the Department.

B. A designated trauma center shall: (II)

1. Notify the Department within ten (10) calendar days if it is unable to provide the level of care or services for its level of designation, the reasons, and plans to correct;

2. Notify the Department if it chooses to no longer provide trauma services commensurate with its designation level.

C. If the trauma center chooses to apply for a lower level of designation, they shall follow the procedures listed in the application and designation process in accordance with this regulation, and may have an onsite visit upon recommendation by the TAC.

### **214. Public Notification of Trauma Center Designation Status**

A. At the time of designation, revocation of designation, or of any change in the status of a hospital's designation as a trauma center, the Department shall report such changes to the public by means of public record within thirty (30) days of the change of said hospital's trauma center designation status. The Department shall also notify licensed emergency medical service providers of the change of trauma center designation status.

B. The Department, Trauma Advisory Council, and the members of the onsite inspection team shall maintain confidentiality of information, records, and reports developed pursuant to onsite reviews as permitted by state and federal laws.

## SECTION 300

### CERTIFICATE OF DESIGNATION REQUIREMENTS

#### **301. Certification Requirements (II)**

A. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or market itself or represent itself as a trauma center or use similar terminology, for example, "trauma hospital" or "trauma facility," in South Carolina without first obtaining a certificate of designation from the Department. When it has been determined by the Department that an entity claims, advertises, or represents itself as a trauma center and is not designated by the Department, the entity shall be ordered by the Department to cease operation immediately. False representation as a trauma center may result in monetary penalties as determined by the Department.

B. A certificate of designation shall not be issued to an entity until the owner and/or operator of that entity has demonstrated to the Department that the facility is in substantial compliance with these standards through the designation process.

C. No provider that has been issued a certificate for a trauma center at a specific address shall relocate or establish a new trauma center without first obtaining authorization from the Department.

D. No trauma center shall, in any manner, advertise or publicly assert that its trauma designation affects the hospital's care for non-trauma patients or that the designation would influence the referral of non-trauma system patients.

**302. Issuance and Terms of the Certificate of Designation (II)**

A. A certificate shall be issued by the Department and shall be displayed in a conspicuous place in a public area in the trauma center.

B. The issuance of a certificate does not guarantee adequacy of individual care, treatment, procedures, and/or services, personal safety, fire safety or the well-being of any patient.

C. A certificate is not assignable or transferable and is subject to revocation at any time by the Department for the provider's failure to comply with the laws and regulations of this State.

D. A certificate shall be effective for a specific trauma center, at a specific physical location, for a period of up to five (5) years following the date of issue. A certificate shall remain in effect until the Department notifies the certificate holder of a change in that status or until the expiration of such certificate. Certificates issued after July 1, 2018, shall expire on the date of expiration of the ACS verification.

**Section 303. Exceptions to the Standards**

The Department has the authority to make exceptions to these standards when it is determined that the health, safety, and well-being of the patients will not be compromised and provided such standard is not specifically required by statute.

## SECTION 400

## ENFORCEMENT OF REGULATIONS

**401. General**

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a hospital trauma center in order to enforce this regulation. Such areas of review may include, but not be limited to, trauma patient records, hospital trauma registry data, trauma process improvement plans, educational records, committee minutes, and physical facilities.

**402. Inspections and Investigations**

A. An onsite inspection shall be conducted prior to designation of a hospital trauma center in accordance with Sections 207 and 208. Subsequent inspections may be conducted as deemed appropriate by the Department.

B. All facilities are subject to inspection or investigation at any time without prior notice by individuals authorized by the Department.

C. Individuals authorized by the Department shall be granted unobstructed access to all properties and areas, objects, and records. If photocopies are made for the Department, they shall be used only for purposes of enforcement of regulations and/or ensuring compliance with designation criteria, and confidentiality shall be maintained as permitted by state and federal laws. The physical area of inspections shall be determined by the extent to which there is potential impact or effect upon patients as determined by the Department.

D. A facility found noncompliant with this regulation shall submit a written plan of correction to the Department, signed by the administrator and returned by the date specified on the report of inspection or investigation. The written plan of correction shall describe:

1. The actions to correct each cited deficiency;

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2. The proposed actions to prevent similar recurrences; and
3. The actual or expected completion dates of those actions.

E. Information received by the Department through filed reports, inspections, or as otherwise authorized under this regulation shall not be disclosed publicly in such a manner as to identify hospitals or other participating providers except in proceedings involving the denial, change, or revocation of a trauma center designation or type.

F. The Department, members of the onsite inspection team, and the TAC shall maintain confidentiality of information, records, and reports developed pursuant to onsite reviews as permitted by state and federal laws.

### **403. Investigation Procedures**

A. Any person or entity may communicate a complaint or knowledge of an incident of any alleged violation of these regulations to the Department. Complaints shall be submitted in written form to the Department. The Department may begin an investigation without a written complaint if there is sufficient cause.

B. All designated trauma centers and EMS providers are subject to investigation at any time without prior notice by individuals authorized by the Department.

C. An authorized representative of the Department, upon presentation of valid identification, shall be permitted to examine equipment, vehicles, physical plant, and records. Any other requests shall be complied with so long as it is pertinent to the care of trauma patients and consistent with the requirements within the applicable regulations.

D. At the conclusion of the Department's investigation, the Department shall report its findings to the trauma center in writing, including any requirements for corrective action.

## **SECTION 500**

### **ENFORCEMENT ACTIONS**

#### **501. General**

A. When the Department determines that a designated trauma center is in violation of any statutory provision, rule, or regulation relating to the duties therein, the Department may, upon proper notice to that entity, impose a monetary penalty and/or deny, suspend, and/or revoke its certificate of designation. This includes failure to comply with designation criteria and/or failing to comply with previously approved corrective plans.

B. The Department may impose monetary penalties on any licensed emergency medical service provider found noncompliant with this or other related statute or regulations.

#### **502. Violation Classifications**

Violations of standards in this regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health, safety, or well-being of any persons or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of this time may be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines to have a negative impact on the health, safety or well-being of persons in the facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations. The citation of a Class III violation may specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

D. In arriving at a decision to take enforcement action, the Department will consider the following factors:

1. The number and classification of violations, including repeat violations;
2. The specific conditions and their impact or potential impact on health, safety or well-being of the patients;
3. The efforts by the facility to correct cited violations;
4. The overall conditions of the facility;
5. The failure or refusal to comply with the provisions or requirements of this regulation;
6. The misrepresentation of a material fact about facility capabilities or other pertinent circumstances in any record or in a matter under investigation for any purposes connected with this chapter;
7. The prevention, interference with, or any attempts to impede the work of a representative of the Department in implementing or enforcing these regulations or the statute;
8. The use of false, fraudulent, or misleading advertising, or any public claims regarding the hospital's ability to care for non-trauma patients based on its trauma center designation status;
9. The misrepresentation of the facility's ability to care for trauma patients based on its designation status;
10. The failure to provide data to the Trauma Registry;
11. Any other pertinent conditions that may be applicable to statutes and regulations.

E. When a decision is made to impose monetary penalties, the Department may utilize the following schedule as a guide to determine the dollar amount:

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### Frequency of violation of standard within a thirty-six (36) month period:

#### MONETARY PENALTY RANGES

FREQUENCY	CLASS I	CLASS II	CLASS III
1st	\$500-1500	\$300-800	\$100-300
2nd	1000-3000	500-1500	300-800
3rd	2000-5000	1000-3000	500-1500
4th	5000	2000-5000	1000-3000
5th	7500	5000	2000-5000
6th and more	10000	7500	5000

#### SECTION 600

##### STAFFING (I)

A. Trauma centers shall have adequate staff, to include physicians, a Trauma Program Manager, Registrar, and other staff necessary to meet criteria for designation as outlined in the 2014 edition of “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons.

B. Detailed components of support services and medical, nursing, and ancillary staffing for each level shall, at a minimum, meet the criteria for the applicable designation as outlined in the 2014 edition of “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons.

#### SECTION 700

##### FACILITY, EQUIPMENT, AND CARE REQUIREMENTS

##### 701. Physical Facilities (II)

Environment, equipment, supplies, and procedures utilized in the care of trauma patients shall meet the criteria outlined in the 2014 edition of “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons unless required otherwise by these regulations.

##### 702. Trauma Care of the Patient (Transfers) (II)

Trauma patients arriving at non-designated trauma centers shall be transferred to the appropriate level of trauma center. Patients arriving at a designated trauma center and having care needs exceeding the capabilities of that center shall be transferred to a higher level of care. Each hospital providing trauma care services shall establish

and implement a written plan that outlines the process, providers, and methods of providing risk-appropriate stabilization and transfer of any patient requiring specialized services as well as reciprocal transfer of those patients when specialized services are no longer required. These plans shall be developed in collaboration with the receiving trauma centers and may include specific crew configuration for transport. The plan shall outline the following:

- A. Communication between referring hospitals (must be physician to physician), transport teams, medical control, patients, and families;
- B. Indications for both acute phase and reciprocal transfer between trauma centers, to include essential contact persons and telephone numbers for referrals and transfers; and
- C. A list of all medical record copies and additional materials to accompany each patient in transport.

**703. Trauma Care Services (I)**

- A. Each trauma care facility shall provide adequate staffing and equipment to meet criteria established by the Department, guided by the recommendations outlined in the 2014 edition of “Resources for Optimal Care of the Injured Patient,” by the American College of Surgeons.
- B. No person, regardless of his ability to pay or location of residence, may be denied trauma care if a member of the admitting hospital’s medical staff or, in the case of a transfer, a member of the accepting hospital’s staff determines that the person is in need of trauma care services.
- C. If the care required for any patient is not available at the facility, arrangements shall be made for transfer to a more appropriate facility. Prior to the transfer of a patient to another facility, the receiving trauma center shall be notified of the impending transfer.

**SECTION 800**

**TRAUMA TRIAGE AND TRANSPORT GUIDELINES (I)**

**801. Purpose**

The Department, with the advice of the Trauma Advisory Council, shall establish Trauma Triage and Transport Guidelines to improve the quality of trauma care being provided to patients by ensuring that EMS providers transport patients to the appropriate level of trauma care. Such guidelines shall be established using the 2011 version of the Center for Disease Control’s “Guidelines for Field Triage of Injured Patients.”

**802. Required Participation.**

All licensed Emergency Medical Services (EMS) providers shall, at a minimum, use the Department’s trauma triage and transport guidelines that shall be based on the guidelines established by the 2011 version of the Center for Disease Control’s “Guidelines for Field Triage of Injured Patients.” The EMS providers may edit the guidelines to identify the local trauma centers, but must use the Department-approved policy otherwise.

**803. Required Transport**

Emergency medical service personnel shall transport a trauma patient directly to a trauma center that is qualified to provide appropriate care, unless one (1) or more of the following exceptions apply:

- A. It is medically necessary to transport the patient to another hospital for initial assessment and stabilization before transfer to a trauma center;

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B. It is unsafe or medically inappropriate to transport the patient directly to a trauma center due to adverse weather or ground conditions;

C. Transporting the patient to a trauma center would cause a shortage of local emergency medical service resources (defined as no resources available for longer than thirty (30) minutes in a reasonable response area) and air transport is unavailable;

D. No appropriate trauma center is able to receive and provide trauma care to the trauma patient without undue delay; or

E. Before transport of a patient begins, the patient requests to be taken to a particular hospital that is not a trauma center or, if the patient is less than eighteen (18) years of age or is not able to communicate, such a request is made by an adult member of the patient's family or a legal representative of the patient.

### **804. Triage Tag System**

All 911 EMS providers shall utilize a universal triage tag recommended by the Department. Such a tag shall have a barcode to scan for patient tracking and shall have the ability to show only one (1) color of triage category at any given time. The initial supply of these tags shall be provided by the Department and requests shall be granted on a first come first served basis. It shall be the responsibility of each agency to replenish their supply as necessary. Any other emergency response agencies, such as law enforcement, fire, and private EMS, may also request issuance of such tags to participate in the system and ensure consistency.

## **SECTION 900**

### **PATIENT RIGHTS (III)**

#### **901. General**

The facility shall comply with all relevant federal, state, and local laws and regulations concerning discrimination, for example, Title VII, Section 601 of the Civil Rights Act of 1964.

#### **902. Grievances and Complaints**

A. The facility shall establish a written grievance and complaint procedure and make this procedure available to patients upon request.

B. Upon receipt of a complaint by the Department, the Department shall:

1. Notify the hospital of the complaint;
2. Initiate a review of the complaint which may consist of an onsite review by the Department;
3. Develop a written report of the review; and
4. Notify the hospital of the results and provide a copy of the final report.

SECTION 1000

STATEWIDE TRAUMA REGISTRY (II)

**1001. Purpose of Trauma Registry**

A. The Department shall establish a trauma data collection and evaluation system, known as the “Trauma Registry.” The Trauma Registry shall be designed to include, but not be limited to, trauma studies, patient care and outcomes, compliance with standards of verification, and types and severity of injuries in the state. The data elements collected in the state registry shall be determined by the Department with collaboration from the TAC and defined in the data dictionary.

B. The Department may collect, as considered necessary and appropriate, data and information regarding trauma patients admitted to a facility through the emergency service, through a trauma center, or directly to a special care unit. Data and information shall be collected in a manner that protects and maintains the confidential nature of patient and staff identifying information.

C. Any South Carolina hospital may participate in submitting to the Trauma Registry.

D. The Department shall establish and maintain a current data dictionary and provide it to all trauma centers to define required data points.

**1002. Requirement to Submit Data**

A. Each designated trauma center shall participate in the System Trauma Registry by:

1. Identifying a person to be responsible for coordination of trauma registry activities;
2. Participating in and submitting data to the National Trauma Data Bank (NTDB); and

3. Downloading required trauma data as stipulated by the Department in the state data dictionary. Each trauma center designated by the Department shall provide data to the Department at least quarterly as listed below. The trauma center shall provide the data to the Department no later than ninety (90) days following the end of each quarter. The trauma center shall establish measures to ensure that the data entered in the trauma registry is accurate and complete.

Admission Period	Due Date
January - March	July 1
April - June	October 1
July - September	January 1
October - December	April 1

B. Only patient care records that are included in the hospital’s trauma registry may be requested for review by site inspection teams at the time of initial designation and re-designation or by the Department for focused reviews during any time of the hospital’s designation period.



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### **1003. Inclusion and Exclusion Criteria**

Patient inclusion and exclusion criteria shall be established by the Department under the guidance of the Trauma Advisory Council and maintained in the state data dictionary. Such data shall include, at a minimum, the information and data points required by the National Trauma Data Bank.

### **1004. Confidentiality Protection of Data and Reports**

Information that identifies individual patients shall not be disclosed publicly without the patient's consent. Reports that do not contain protected health information or any identifiable information may be generated and distributed. Such reports shall show only general information and shall not identify any protected information or hospital information.

## SECTION 1100

### HOSPITAL RESOURCES DATA BASE (II)

#### **1101. Purpose**

A. The Hospital Resources Data Base shall be used to monitor hospital resources on a continuous basis, disseminate information throughout South Carolina's healthcare system, and inform users of the clinical services offered, laboratory capabilities, and bed capacity.

B. The Department shall manage the Hospital Resources Data Base for South Carolina participants.

#### **1102. Required Participation**

All trauma centers designated by the Department shall utilize the Hospital Resources Data Base. Information shall be updated on a daily basis, which shall include, but not be limited to: hospital bed availability, specialty service capability, and disaster resources.

## SECTION 1200

### TRAUMA CARE FUND

#### **1201. Eligible Recipients of Fund**

Trauma centers, rehabilitation centers, physicians, Emergency Medical Services providers licensed by the Department, Regional EMS Councils, Regional Trauma Councils, and the Division of EMS and Trauma are eligible to receive trauma care funds appropriated by the South Carolina General Assembly.

#### **1202. Allocation of Fund**

The Department may authorize and allocate the distribution of funds as directed by the General Assembly in the Appropriations Act to trauma centers, rehabilitation centers, physicians, Emergency Medical Services providers licensed by the Department, air ambulance providers licensed by the Department that always use a certified paramedic on all flights and maintain a licensed South Carolina medical director on staff, Regional Trauma Councils, and Regional EMS Councils. The Department, with the advice of the Trauma Advisory Council and its subcommittees and/or workgroups, shall determine the priority of distributions after Department operating expenses, as well as a distribution formula.

## SECTION 1300

## PERFORMANCE IMPROVEMENT PROGRAMS

**1301. General**

Performance improvement (PI) programs shall be developed, maintained, and executed.

**1302. Statewide Trauma System Performance Improvement Plan**

The Department shall develop and maintain a Statewide Trauma System PI Plan with input from the state Trauma Advisory Council and its subcommittees or workgroups. This plan shall, at a minimum, report:

A. Summary statistics and trends for demographic and related information about trauma care for the state Trauma Advisory Council; and

B. Outcome measures for evaluation of clinical care and system-wide quality assurance and performance improvement programs.

**1303. Trauma Center Performance Improvement Plan (II)**

Each trauma center shall have in place an ongoing performance improvement process consistent with the designation requirements. Performance improvement records must be available for inspection by the Department upon request. Records shall include the process for identification and review, documentation or disposition of issues found, and summaries of changes implemented to include, but not be limited to, patient care practice, policies, and/or operating procedures.

**1304. Performance Improvement and Feedback**

Each trauma center shall develop functional relationships with all potential referring facilities and is required to provide feedback. Any process issues shall be identified and a written cooperative plan shall be established when needed. Sufficient documentation of other lesser process issues shall be maintained and available for review upon request.

## SECTION 1400

## ADVISORY COMMITTEES

**1401. State Trauma Advisory Council**

A. The State Trauma Advisory Council shall act as an advisory body for trauma care system development and provide technical support to the Department in areas of trauma care system design, trauma standards, data collection and evaluation, performance improvement, trauma system funding, and evaluation of the trauma care system and trauma care programs.

B. The State Trauma Advisory Council (TAC), the State EMS Advisory Council, and the Department shall adopt similar guidelines for its operations. These guidelines shall include attendance, maintenance of minutes, and other guidelines necessary to ensure the orderly conduct of business. The TAC shall have other functions as follows:

1. Review and comment on the Department's regulations, policies, and standards for trauma;
2. Advise the Department regarding trauma system needs and progress throughout the state;

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3. Review state and local pre-hospital trauma triage guidelines; and
4. Advise the Department on injury prevention and public information and/or educational programs.

### **1402. Medical Control Committee**

A. The Medical Control Committee is a subcommittee of the Trauma Advisory Council and the EMS Advisory Council composed of medical control physicians from each of the state's four (4) EMS regions, physician members of the EMS and Trauma Advisory Councils, and the State Medical Control Physician.

B. The Medical Control Committee is an advisory board responsible for the establishment of approved pre-hospital equipment and skills, the State EMS Formulary and other issues pertaining to EMS and trauma care.

## SECTION 1500

### TRAUMA SYSTEM PLANS

#### **1501. General**

A. The Department shall establish and maintain a state trauma system plan with input from the TAC and its working groups.

B. The Department shall use the state trauma system plan as the basis for establishing a statewide inclusive trauma system.

C. In developing the state trauma system plan, the Department shall consider any available federal model trauma plans.

D. The Department shall provide technical assistance and support to the TAC, the Medical Control Committee, hospitals or other healthcare facilities, and EMS providers as necessary to carry out the State Trauma Plan.

#### **1502. Trauma Center Internal Disaster Plan (II)**

Each designated trauma center shall develop an internal disaster plan that is based on data supplied by the trauma registry and other sources and shall provide for the ongoing assessment and improvement of performances of the trauma center. Such plan shall be made available to the site survey team at the time of their visit.

## SECTION 1600

### SEVERABILITY

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

## SECTION 1700

### GENERAL

Conditions which have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

**Fiscal Impact Statement:**

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.

**Statement of Need and Reasonableness:**

This Statement of Need and Reasonableness is based on an analysis of the factors listed in 1976 Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-116, South Carolina Trauma Care Systems.

Purpose: The purpose of these amendments to R.61-116 is to clarify standards pertaining to South Carolina Trauma Care Systems. These amendments provide updates to designation criteria as published by the American College of Surgeons, reporting requirements, facility design and construction, provisions relating to standards of care, staffing requirements, application requirements, triage and transport requirements, inspections and violations enforcement, data collection, and general designation requirements. In addition, provisions have been amended for general clarity, readability, grammar, references, codification and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-61-510 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.61-116, which includes these latest amendments, will be available electronically on the Department's Laws and Regulations website. 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 REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

The Department promulgated R.61-116 in 2009. Pursuant to S.C. Code Section 1-23-120(J), the Department is required to perform a formal review of its regulations every five (5) years and update them if necessary.

Regulation 61-116 has not been substantively updated since its promulgation in 2009. Therefore, many of the procedures, practices, and terms are outdated and/or inapplicable. The amendments further clarify and improve designation criteria as published by the American College of Surgeons, provisions relating to standards of care, staffing requirements, triage and transport, enforcement provisions, and overall facility design and construction.

**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. Amendments to R.61-116 update designation requirements to the current criteria as published by the American College of Surgeons, improve standards of care, update staffing requirements and triage and transport requirements, improve data collection standards, and provide overall updates to the regulation for clarity and consistency.

**UNCERTAINTIES OF ESTIMATES:**

None.

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### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The amendments to R.61-116 seek to support the Department's goals relating to protection of public health 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 not 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 has amended R.61-116 pursuant to the S.C. Code Section 1-23-120(J) requirement the Department perform a formal review of its regulations every five (5) years and update them if necessary. The amendments update R.61-116 to comply with current designation criteria of the American College of Surgeons, improve reporting requirements, update data collections standards, and update provisions relating to staffing requirements, application requirements, triage and transport requirements, and facility design and construction requirements.

Document No. 4564

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### CHAPTER 61

Statutory Authority: 1976 Code Section 44-7-260

61-13. Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions

### Synopsis:

Regulation 61-13 was promulgated in 1992. Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions are those facilities which serve four (4) or more persons and provide health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services. These facilities provide room and board, and active treatment for individuals with intellectual disabilities and related conditions. The amendments herein include the Department's effort to incorporate updates and clarification relating to facility licensure requirements, accident and/or incident reports, client and medical record maintenance, emergency procedures and disaster preparedness, client care, treatment, and services, design and construction, and fire and life safety. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

Changes made at the request of the House Regulations and Administrative Procedures Committee  
by letter dated March 10, 2016:

### 61-13.600. STAFF AND TRAINING (formerly 61-13.B(4))

Section 604.E – Add the word “to” after the word “clients” for clarity.

### 61-13.700. REPORTING

Section 701.C – Remove the words “attending physician” and replace with the word “client’s” and add the words “the attending physician,” after the comma following the word “party” for clarity.

**61-13.1200. MEDICATION MANAGEMENT (formerly 61-13.I)**

Section 1201.A – Remove the letter “d” in the words “supplied” in the phrase “medical supplied, first aid supplied” and replace both of the letters “d” with the letter “s” for grammatical correctness.

Section 1205.B – Add a comma after the words “makeshift labels” for grammatical correctness.

Section 1206.C.4 – Add the word “and” after the semicolon for grammatical correctness.

**61-13.1401. Disaster Preparedness (formerly 61-13.B(8))**

Section 1401.B.1.b – Add the word “and” after the semicolon for grammatical correctness.

Section 1401.B.2.c – Add the word “and” after the semicolon for grammatical correctness.

Section 1401.B.3.b – Add the word “and” after the semicolon for grammatical correctness.

Section 1401.B.3.c – Add the word “A” before the word “Co-signed” and remove the uppercase letter “C” in the word “Co-signed” and replace it with the lowercase letter “c” for grammatical correctness.

**61-13.1500. INFECTION CONTROL AND ENVIRONMENT**

Section 1503.D.1 – Add the word “or” after the comma following “sweats” for grammatical correctness.

Section 1504.C.1 - Add the word “or” after the comma following “sweats” for grammatical correctness.

Section 1505.A.4 - Add the word “or” after the semicolon for grammatical correctness.

**61-13.1600. MEAL SERVICE (formerly 61-13.N)**

Section 1605.C.1 – Add the word “and” after the semicolon for grammatical correctness.

Section 1606.C.4 – Add the word “and” after the semicolon for grammatical correctness.

Section-by-Section Discussion of Amendments

The title of this regulation was amended to comply with current statutory requirements.

Statutory authority for this regulation was added under the title of the regulation and before the table of contents.

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The table was revised to reflect the amendments.

**61-13.100. Definitions (formerly 61-13.A(1))**

The definitions of 61-13.100.A Abuse, 61-13.100.C Administrator, 61-13.100.D Adult, 61-13.100.E Airborne Infection Isolation, 61-13.100.J Exploitation, 61-13.100.L Incident, 61-13.100.N Interdisciplinary Team, 61-13.100.O Intermediate Care Facility for Individuals with Intellectual Disabilities, and 61-13.100.Q Neglect were added. The definitions of 61-13.100.B (formerly 61-13.A(1)(b)) Active Treatment, 61-13.100.F (formerly 61-13.A(1)(f)) Client, 61-13.100.K (formerly 61-13.A(1)(n)) Habilitation Center for Persons with Intellectual Disability or Persons with Related Conditions, 61-13.100.P (formerly 61-13.A(1)(p)) Licensee, 61-13.100.S (formerly 61-13.A(1)(s)) Other Related Conditions, and 61-13.100.R (formerly 61-13.A(1)(t)) Qualified Intellectual Disability Professional, have been amended. The definitions of 61-13.A(1)(a) Accident/Incident, 61-13.A(1)(c) Attic, 61-13.A(1)(d) Automatic Sprinkler System, 61-13.A(1)(e) Basement, 61-13.A(1)(j) Existing Facility, 61-13.A(1)(k) Exit, 61-13.A(1)(l) Fire Resistive Rating, 61-13.A(1)(m) First Floor, 61-13.A(1)(o) Institutional Occupancy, 61-13.A(1)(r) New Facility, and 61-13.A(1)(u) Story, have been deleted. The remaining definitions were renumbered to adjust the codification.

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### **61-13.200. LICENSE REQUIREMENTS (formerly 61-13.A(2))**

Section 61-13.A(2) Interpretations was relocated to Section 61-13.200 and titled License Requirements.

### **61-13.201. Scope of Licensure (formerly 61-13.A(2))**

The amendment revises Section 61-13.201.A (formerly 61-13.A(2)(b)) to reference the appropriate section. The amendment adds language to Section 61-13.201.B (formerly 61-13.A(2)(c)) to indicate the effective date of licensure. In addition, the amendment revises Section 61-13.201.D (formerly 61-13.A(2)(d)) to reference the appropriate section.

### **61-13.202. License Application (formerly 61-13.B(1))**

The amendment revises the language in Section 61-13.202 (formerly 61-13.B(1)) to clarify license application requirements.

### **61-13.203. Compliance**

The amendment was added to require initial licensees to comply with licensing standards. Language was added to clarify the guidelines of copying a license.

### **61-13.204. Compliance with Structural Standards**

Section 61-13.204 was added to allow facilities licensed at the time of promulgation of these regulations shall be allowed to continue utilizing the previously-licensed structure without modification.

### **61-13.205. Licensing Fee (formerly 61-13.A(2)(e))**

The amendment was added to allow for the payment of licensing fees by check or credit card.

### **61-13.206. Change of License (formerly 61-13.A(2)(k))**

The amendment was relocated to the appropriate section and renumbered to adjust the codification.

### **61-13.207. Licensed Bed Capacity**

The amendment was added to clarify the licensed bed capacity and to require facilities to obtain authorization prior to any change in bed capacity.

### **61-13.208. Exceptions to Licensing Standards (formerly 61-13.A(2)(j))**

This section was relocated and renumbered to adjust the codification. The amendment adds language clarifying licensing standards with regard to exceptions.

## **61-13.300. ENFORCEMENT OF REGULATIONS**

Section 61-13.300 was added outline procedures for enforcement of the regulation.

### **61-13.301. General**

Section 61-13.301 was added to allow the Department to utilize inspections, investigations, consultations, and otherwise to enforce this regulation.

### **61-13.302. Inspections and Investigations**

Section 61-13.302.A adds language that facilities shall be inspected prior to initial licensing. Section 61-13.302.D describes the written plan of correction for facilities that are found noncompliant. The amendment adds language to Section 61-13.302.E that the Department may charge a fee for plan for reviews, construction inspections, and licensing inspections.

### **61-13.400. ENFORCEMENT ACTIONS (formerly 61-13.A(3))**

The amendment revises the language in Section 61-13.400 (formerly 61-13.A(3)) to clarify enforcement actions.

**61-13.500. POLICIES AND PROCEDURES**

Section 61-13.500 was added to require facilities to develop and implement policies and procedures to accurately reflect actual facility operation.

**61-13.600. STAFF AND TRAINING (formerly 61-13.B(4))**

The amendment adds Section 61-13.601.B to require all personnel to undergo a criminal background check prior to employment. Section 61-13.602 has been amended to clarify requirements of the facility administrator. Section 61-13.603 was added to clarify requirements of direct care staff. Section 61-13.604 (formerly 61-13.B(4)) was amended to clarify the staffing ratio. Section 61-13.605 (formerly 61-13.B(4)(f)) amends the language to clarify inservice training. Section 61-13.606 (formerly 61-13.B(4)) was relocated and adjusted for codification. Section 61-13.607 (formerly 61-13.B(5)) was amended to clarify requirements of volunteer workers.

**61-13.700. REPORTING**

The amendment revises Section 61-13.701 (formerly 61-13.B(7)) to the current standards of accident and/or incident reporting. The amendment revises Section 61-13.702 (formerly 61-13.B(7)(f)) to current standards regarding fire reporting. Section 61-13.703 (formerly 61-13.D(5)) was relocated and adjusted for codification. Section 61-13.704 was added to require notification to the Department when a facility receives evacuees. Section 61-13.705 was added to address policies and procedures for temporary and permanent facility closure. Section 61-13.706 was added to address facilities with zero census.

**61-13.800. CLIENT RECORDS (formerly 61-13.J)**

The amendment revises Section 61-13.801 (formerly 61-13.J(1)) to clarify the required content for client records. Section 61-13.802 (formerly 61-13.J(2)) was relocated to conform to codification. Section 61-13.803 (formerly 61-13.J(1)(d)) was relocated to adjust codification. Section 61-13.804 (formerly 61-13.J(3)) was revised to current record retention practices.

**61-13.900. ADMISSION AND RETENTION (formerly 61-13.D(2))**

Section 61-13.900 (formerly 61-13.D(2)) was relocated and adjusted for codification. The amendment revises Section 61-13.900.C (formerly 61-13.D(2)(c)) to reference the applicable section. Section 61-13.900.D was added to require an assessment to determine the diet and food consistency the client can manage within one (1) month prior to or within forty-eight (48) hours of client admission.

**61-13.1000. CLIENT CARE AND SERVICES (formerly 61-13.D)**

Section 61-13.1001 was relocated from former Section 61-13.C(2) and revised for clarity. Section 61-13.1002 (formerly 61-13.D(1)) was relocated and revised for clarity. Section 61-13.1003 was relocated from former Section 61-13.G and amended for clarity. Section 61-13.1004 was relocated from former Section 61-13.H and amended for clarity. Section 61-13.1005 was relocated from former Section 61-13.D(3) and amended for clarity. Section 61-13.1006 was relocated from former Section 61-13.D(4) and amended to require facilities to perform an oral assessment on clients within one (1) month or prior to admission. Section 61-13.1007 was relocated from former Section 61-13.D(6) and amended for clarity. Section 61-13.1008 was relocated from former Section 61-13.D(7) and amended for clarity. Section 61-13.1009 was added to clarify restraint requirements. Section 61-13.F was deleted as social service requirements are covered in Section 61-13.800.

**61-13.1100. RIGHTS AND ASSURANCES (formerly 61-13.B(9))**

The amendment revises Section 61-13.1100 (formerly 61-13.B(9)) to correct statutory references. Section 61-13.1100.C was added to allow for a grievance and complaint procedure for clients.

**61-13.1200. MEDICATION MANAGEMENT (formerly 61-13.I)**

The Section title was revised for clarity. Section 61-13.1201 (formerly 61-13.I(1)) was revised to current requirements of medication management. Section 61-13.1202 was added to delineate requirements for medication and treatment orders. Section 61-13.1203.G was amended to allow non-licensed staff members to administer nonlegend drugs. Sections 61-13.1204 and 61-13.1205 were revised regarding medication



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management. Section 61-13.1206 (formerly 61-13.I(3)) was revised to current medication storage standards. Section 61-13.1207 was relocated from former Section 61-13.I(4) and amended for clarity. Section 61-13.1208 was relocated from former Section 61-13.I(6) and amended to require those facilities with emergency medication kits or carts to comply with the provisions of Regulation 61-4, Controlled Substances. Section 61-13.1209 (formerly 61-13.I(4)) has been updated to current medication destruction requirements.

### **61-13.1300. VITAL STATISTICS (formerly 61-13.K)**

Section 61-13.1302 (formerly 61-13.K(2)) was revised to reference the applicable regulation.

### **61-13.1400. EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS**

Section 61-13.1400 title was added for clarity.

#### **61-13.1401. Disaster Preparedness (formerly 61-13.B(8))**

The amendment revises Section 61-13.1401 (formerly 61-13.B(8)) to current Emergency Procedures/Disaster Preparedness standards.

#### **61-13.1402. Emergency Call Numbers (formerly 61-13.B(6))**

The amendment revises Section 61-13.1401 (formerly 61-13.B(6)) for clarity.

#### **61-13.1403. Continuity of Essential Services**

Section 61-13.1403 was added to delineate the requirements for the continuity of essential services.

### **61-13.1500. INFECTION CONTROL AND ENVIRONMENT**

The amendment adds Sections 61-13.1501, 61-13.1502, 61-13.1503, and 61-13.1504 to adjust for current Tuberculosis Risk Assessment and Screening standards. Sections 61-13.1505 (formerly 61-13.M(2)), 61-13.1506 (formerly 61-13.M(4)), 61-13.1507 (formerly 61-13.M(3)(c)), and 61-13.1508 (formerly 61-13.M(3)) were relocated and renumbered to adjust codification. Section 61-13.1509 was added to address cleaning and use of equipment and supplies.

### **61-13.1600. MEAL SERVICE (formerly 61-13.N)**

The amendment revises Section 61-13.1600 (formerly 61-13.N) to current standards for meal service staff. In addition, the amendment revises the Section references to the "Department of Health and Environmental Control" to the "Department". Section 61-13.1601.A was amended to clarify a distinction between facilities with sixteen (16) beds or more and fifteen (15) beds or less in regard to kitchen equipment. Section 61-13.1606 has been added to address dietary requirements. Section 61-13.1607 has been added to address food menu requirements. Section 61-13.1608 has been added to address ice and drinking water requirements.

### **61-13.1700. FIRE PREVENTION**

The amendment revises Section 61-13.1701 (formerly 61-13.O(1)) to current fire protection standards. Section 61-13.1702 has been added to address fire response training for employees. Section 61-13.1703 has been added to address fire drill requirements.

### **61-13.1800. DESIGN AND CONSTRUCTION (formerly 61-13.Q)**

The amendment revises Section 61-13.1801 (formerly 61-13.Q(1)) to classify facilities as Institutional Occupancy I2. The amendment revises Section 61-13.1802 (formerly 61-13.Q(2)) to current construction codes and standards. The amendment revises Section 61-13.1803 (formerly 61-13.Q(3)) to the current requirements for submission of plans. The amendment deletes several references in former Section 61-13.Q and consolidates the construction references to Section 61-13.1804. The amendment deletes various parts of the regulation from various sections and consolidates them under 61-13.1800 as Sections 61-13.1805 (formerly 61-13.Y(6)) Client Rooms, 61-13.1806 (formerly 61-13.Y(7)) Control Station, and 61-13.1807 (formerly 61-13.Y(9)) Utility Rooms.

**61-13.1900. FIRE PROTECTION EQUIPMENT AND SYSTEMS (formerly 61-13.T)**

The amendment revises Section 61-13.1901 (formerly 61-13.T(1) and (2)) to require a fire alarm system that notifies all occupiable areas and floors of the building by audible and visual alarm. Section 61-13.1902 (formerly 61-13.W(8)) was amended to delineate requirements of emergency generator service for those facilities with emergency generator service.

**61-13.2000. PREVENTATIVE MAINTENANCE**

The amendment adds Section 61-13.2000 to require compliance with construction and fire codes in performing preventative maintenance.

**61-13.2100. EQUIPMENT AND SYSTEMS (formerly 61-13.S)**

The amendment revises Section 61-13.2100 (formerly 61-13.S) to delete “Hazardous Elements of Construction” and add “Equipment and Systems.”

**61-13.2101. Gases**

Section 61-13.2101.A was revised to clarify the requirements of storing gases, flammable and nonflammable. Section 61-13.2101.B was added to clarify the requirements for designated smoking areas.

**61-13.2102. Furnishings and Equipment**

Section 61-13.2102 was added to clarify the requirements for furnishings and equipment.

**61-13.2200. WATER SUPPLY, HYGIENE, AND TEMPERATURE CONTROL**

Section 61-13.2200 (formerly 61-13.V(1)(e)) was revised to current water temperature standards and to update the reference to another section.

**61-13.2300. ELECTRICAL**

The amendment revises Sections 61-13.2302 (formerly 61-13.W(3)), 61-13.2303 (formerly 61-13.W(4)), 61-13.2304 (formerly 61-13.W(5)), 61-13.2305 (formerly 61-13.W(5)(c)), and 61-13.2306 (formerly 61-13.W(7)). The amendment deletes Sections 61-13.W(1), 61-13.W(2), and 61-13.W(6).

**61-13.2400. HEATING, VENTILATION, AND AIR CONDITIONING (HVAC)**

The amendment revises Section 61-13.2400 (formerly 61-13.X(4)) for clarity and to update HVAC requirements and practices.

**61-13.2500. GENERAL CONSTRUCTION REQUIREMENTS (formerly 61-13.R)**

Section 61-13.2500 (formerly 61-13.R) was relocated and renumbered to adjust the codification. The remaining sections were renumbered to adjust the codification.

**61-13.2501. Common Areas**

Section 61-13.2501 was added to clarify the requirements for areas per bed of living, recreational, and dining area combined and accommodations for family privacy after a client’s death.

**61-13.2502. Client Rooms (formerly 61-13.Y(6))**

Section 61-13.2502 (formerly 61-13.Y(6)) was revised to clarify the client room requirements to include a closet or wardrobe, a bureau consisting of at least three (3) drawers and a compartmentalized bedside table or nightstand.

**61-13.2503. Client Room Floor Area (formerly 61-13.Y(6)(b))**

Section 61-13.2503 (formerly 61-13.Y(6)(b)) was revised to clarify the client room floor area for rooms containing one (1) client and rooms containing two (2) clients.

**61-13.2504. Visitor Accommodations**

Section 61-13.2504 was added to clarify visitor designated/guest rooms requirements.

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### **61-13.2505. Baths and Restrooms**

Section 61-13.2505 was added to clarify requirements for baths and restrooms, such as grab bars on toilets and privacy at toilet fixtures and urinals.

### **61-13.2506. Control Stations (formerly 61-13.Y(7))**

Section 61-13.2506 (formerly 61-13.Y(7)) was revised to clarify the setup of the control stations to be conducive to the type of care provided by the facility. Sections 61-13.2506.D, 61-13.2506.E, and 61-13.2506.F were added to clarify the location of the control station, the number of clients/beds served, and the location of the utility rooms for the control station.

### **61-13.2507. Doors (formerly 61-13.U(3))**

Section 61-13.2507 (formerly 61-13.U(3)) was revised to clarify that restrooms shall have opaque doors for privacy. Section 61-13.2507.B was added to clarify that all glass doors shall have a contrasting or other indicator that causes the glass to be observable. Section 61-13.2507.C was added to clarify that doors with locks shall have the ability to open with one action. Section 61-13.2507.E was added to clarify that any locked room door shall have the ability to open from inside the room.

### **61-13.2508. Elevators (formerly 61-13.Y(15))**

The amendment revises Section 61-13.2508 (formerly 61-13.Y(15)) for clarity and to require inspection and testing upon installation and annually thereafter.

### **61-13.2509. Handrails/Guardrails (formerly 61-13.Y(4))**

Section 61-13.2509 (formerly 61-13.Y(4)) was revised to clarify the use and requirements of handrails and guardrails.

### **61-13.2510. Janitor's Closet (formerly 61-13.Y(12))**

Section 61-13.2510 (formerly 61-13.Y(12)) was revised to clarify that the janitor's closet must be lockable and one (1) janitor's closet shall not serve more than forty-four (44) licensed beds.

### **61-13.2511. Storage Areas (formerly 61-13.Y(8))**

Section 61-13.2511.A (formerly 61-13.Y(8)(a)) was revised to clarify storage for client and staff/volunteer belongings and equipment. Section 61-13.2511.B (formerly 61-13.Y(8)(a)) was revised to clarify a separate storage is required for equipment such as beds and wheelchairs.

### **61-13.2512. Telephone Service (formerly 61-13.Q(5))**

Section 61-13.2512.A (formerly 61-13.Q(5)) was amended to allow visitors the use of telephone services. Section 61-13.2512.B was added to clarify the location of each telephone.

### **61-13.2513. Location (formerly 61-13.Q(4))**

Sections 61-13.2513.A (formerly 61-13.Q(4)(b)), 61-13.2513.B (formerly 61-13.Q(4)(c)), and 61-13.2513.C (formerly 61-13.Q(4)(d)) were revised to clarify that the facility shall be served by roads that are passable at all times adequate for the volume of expected traffic, parking shall satisfy the needs of the facility, and the facility shall be accessible to firefighting equipment.

### **61-13.2514. Outdoor Area**

Section 61-13.2514 was added to clarify the requirements for the outdoor area. Section 61-13.2514.A was added to clarify the requirements of protecting unsafe, unprotected physical hazards. Section 61-13.2514.B was added to clarify the fenced area requirements. Section 61-13.2514.C was added to clarify that mechanical or equipment rooms shall be protected from unauthorized individuals.

### **61-13.2600. SEVERABILITY**

Section 61-13.2600 was added to allow the regulation to remain valid should it be determined that a portion of the regulation be invalid or unenforceable.

**61-13.2700. GENERAL (formerly 61-13.AA)**

Section 61-13.2700 (formerly 61-13.AA) was renumbered to adjust the codification.

**Instructions:** Replace Regulation 61-13, *Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions*, in its entirety.

**Text:**

**61-13. Standards for Licensing Intermediate Care Facilities for Individuals with Intellectual Disabilities.**

Statutory Authority: S.C. Code Section 44-7-260

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### **SECTION 2600 - SEVERABILITY**

### **SECTION 2700 - GENERAL**

## **SECTION 100 - DEFINITIONS**

For the purpose of these standards the following definitions shall apply:

### **A. Abuse. Physical Abuse or Psychological Abuse.**

1. **Physical Abuse.** The act of intentionally inflicting or allowing to be inflicted physical injury on a client by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a therapeutic procedure prescribed by a licensed physician or other legally authorized healthcare professional or that is part of a written individual care plan by a physician or other legally authorized healthcare professional is not considered physical abuse. Physical abuse does not include altercations or acts of assault between clients.

2. **Psychological Abuse.** The deliberate use of any oral, written, or gestured language or depiction that includes disparaging or derogatory terms to a client or within the client's hearing distance, regardless of the client's age, ability to comprehend, or disability, including threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

**B. Active Treatment.** An aggressive, consistent implementation of a program of specialized and generic training, treatment, and health services .

**C. Administrator.** The individual designated by the licensee to have the authority and responsibility to manage the facility and to be in charge of all functions and activities of the facility.

**D. Adult.** A person eighteen (18) years of age or older.

**E. Airborne Infection Isolation (AII).** A room designed to maintain Airborne Infection Isolation (AII), formerly called a negative pressure isolation room. An Airborne Infection Isolation (AII) room is a single-occupancy client-care room used to isolate persons with suspected or confirmed infectious tuberculosis (TB) disease. Environmental factors are controlled in Airborne Infection Isolation (AII) rooms to minimize the transmission of infectious agents that are usually spread from person-to-person by droplet nuclei associated with coughing or aerosolization of contaminated fluids. Airborne Infection Isolation (AII) rooms may provide negative pressure in the room (so that air flows under the door gap into the room), an air flow rate of six to twelve (6 to 12) air changes per hour (ACH), and direct exhaust of air from the room to the outside of the building or recirculation of air through a high efficiency particulate air (HEPA) filter.

F. Client. Any individual determined to have intellectual disability or a related condition, and resides and receives services in a licensed facility.

G. Control Station. An area of a facility which is the central focus of client management, nursing function, and service for a client living area. A control station may also be used for administrative functions by other disciplines which provide services to the clients of the facility. A control station shall not serve more than forty-four (44) beds.

H. Department. The South Carolina Department of Health and Environmental Control.

I. Designee. A physician, dentist, osteopath or podiatrist selected by a prescriber to sign orders for medication or treatment in the prescriber's absence.

J. Exploitation.

1. Causing or requiring a client to engage in activity or labor that is improper, unlawful, or against the reasonable and rational wishes of the client;

2. An improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a client by an individual for the profit or advantage of that individual or another individual; or

3. Causing a client to purchase goods or services for the profit or advantage of the seller or another individual through undue influence, harassment, duress, force, coercion, or swindling by overreaching, cheating, or defrauding the client through cunning arts or devices that delude the client and cause him or her to lose money or other property.

4. Exploitation does not include requiring a client to participate in an activity or labor that is a part of a written plan of care or prescribed or authorized by the client's attending physician.

K. Facility. An Intermediate Care Facility for Persons with Intellectual Disability.

L. Incident. An unusual unexpected adverse event or accident resulting in harm, injury, or death of staff or clients, for example, medication errors, adverse medication reactions, client elopement.

M. Intellectual Disability. The significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

N. Interdisciplinary Team. A group designated by the facility to provide or supervise care, treatment, and services provided by the facility. The group normally includes the following persons: registered nurse, dietary, social services, direct care staff members, nurse aides, and activity professionals.

O. Intermediate Care Facility for Individuals with Intellectual Disabilities ("ICF-IID"). A facility that serves four (4) or more persons with intellectual disability or persons with related conditions and provides health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services including room, board, and active treatment for their intellectual disability or related conditions. For purposes of this regulation, the definitions of "Intermediate Care Facility for Individuals with Intellectual Disabilities" and "Habilitation Center for Persons with Intellectual Disability or Persons with Related Conditions" are the same and both terms are utilized interchangeably.

P. Licensee. The individual, corporation, organization, or public entity that has been issued a license to provide care, treatment, and services at a facility and with whom rests the ultimate responsibility for compliance with this regulation.



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Q. Neglect. The failure or omission of a direct care staff member or direct care volunteer to provide the care, goods, or services necessary to maintain the health or safety of a client including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services. Failure to provide adequate supervision resulting in harm to clients, including altercations or acts of assault between clients, may constitute neglect. Neglect may be repeated conduct or a single incident that has produced or could result in physical or psychological harm or substantial risk of death. Noncompliance with regulatory standards alone does not constitute neglect.

R. Nonlegend Medication. A medication that may be sold without a prescription and that is labeled as stock or labeled for use by the consumer in accordance with the requirements of the laws of this state and the federal government.

S. Qualified Intellectual Disability Professional (QIDP). An individual who possesses the following minimal qualifications:

1. Has at least one (1) year of experience working directly with persons with intellectual disability or other developmental disabilities; and

2. Is a doctor of medicine or osteopathy, a registered nurse or an individual who holds at least a bachelor's degree in one of the following professional categories: occupational therapy; occupational therapy assistant; physical therapy; physical therapy assistant; psychology; sociology; speech-language pathology or audiology; recreation; dietetics; or human services.

T. Related Condition. A severe, chronic condition found to be closely related to intellectual disability or to require treatment similar to that required for persons with intellectual disability and must meet the following conditions:

1. Attributed to cerebral palsy, epilepsy, autism, or any other condition other than mental illness found to be closely related to intellectual disability because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with intellectual disability and requires treatment or services similar to those required for these persons;

2. Manifested before twenty-two (22) years of age;

3. Likely to continue indefinitely; and

4. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, understanding and use of language, learning, mobility, self-direction, and capacity for independent living.

## SECTION 200 - LICENSE REQUIREMENTS (II)

### 201. Scope of Licensure

A. No person, private or public organization, political subdivision, or governmental agency shall establish, maintain, or represent itself (advertise or market) as an ICF-IID in South Carolina without first obtaining a license from the Department. Admission of clients or the provision of care, treatment, and/or services to clients prior to the effective date of licensure is a violation of S.C. Code Section 44-7-260(A). (I)

B. A license shall be effective for the period of time specified on its face by the Department.

C. A new facility, or one that has not been continuously licensed under these or prior standards, shall not admit clients until permission is granted by the Department.

D. Separate licenses are required for facilities not maintained on the same premises. Separate licenses may be issued for facilities maintained in separate buildings on the same premises. Each building of a licensed facility shall be staffed in accordance with Section 600.

## **202. License Application**

Applicants for license shall file an application under oath on a form and frequency specified by the Department. An application shall be signed by the owner(s) if an individual or partnership; or in the case of a corporation, by two (2) of its officers; or in the case of a governmental unit, by the head of the governmental department having jurisdiction over it. The application shall set forth the full name and address of the facility for which the license is sought and owner(s); the names of persons in control thereof; and such additional information as the Department may require, including affirmative evidence of ability to comply with reasonable standards, rules, and regulations as may be lawfully prescribed. No proposed facility shall be named nor may an existing facility have its name changed to the same or similar name as a facility licensed in the state.

## **203. Compliance**

An initial license shall not be issued to an applicant until the applicant demonstrates to the Department substantial compliance with the applicable licensing standards. A facility shall make a copy of the licensing standards accessible to all facility staff. In the event a licensee with an existing ICF-IID or other facility licensed by the Department applies for licensure for an additional ICF-IID or other facility, the currently licensed ICF-IID or other facility shall be in substantial compliance.

## **204. Compliance with Structural Standards**

Facilities licensed at the time of promulgation of these regulations shall be allowed to continue utilizing the previously-licensed structure without modification.

## **205. Licensing Fee**

Each applicant shall pay a license fee prior to the issuance of a license. The annual license fee shall be five dollars (\$5.00) per licensed bed. Such fee shall be made payable by check or credit card to the Department and is not refundable.

## **206. Change of License**

A facility shall request issue of an amended license, by application to the Department, prior to any of the following circumstances:

- A. Change of ownership by purchase or lease;
- B. Change of facility's name or address;
- C. Addition of licensed beds; or
- D. Elimination of licensed beds.

## **207. Licensed Bed Capacity**

A facility shall not exceed the bed capacity identified on the face of the license. A licensee shall obtain authorization from the Department before establishing new care, treatment, or services or occupying additional beds or renovated space. The midnight census of the facility shall not exceed the rated capacity of the license.

(I)

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### **208. Exceptions to Licensing Standards**

The Department reserves the right to make exceptions to these standards where it is determined that the health and welfare of the community requires the services of the facility. When an “exception” applies to an existing facility, it will continue to meet the standards in effect at the time it was licensed.

## **SECTION 300 - ENFORCEMENT OF REGULATIONS**

### **301. General**

The Department shall utilize inspections, investigations, consultations, or other pertinent documentation regarding a proposed or licensed facility in order to enforce this regulation.

### **302. Inspections and Investigations**

A. Inspections shall be conducted prior to initial licensing of a facility. The Department, at its own determination, may also conduct subsequent inspections. (I)

B. All facilities are subject to inspection or investigation at any time without prior notice by individuals authorized by the South Carolina Code of Laws. (I)

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, and records at the time of the inspection. If photocopies are made for the Department inspector, they shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify individuals in enforcement action proceedings. Physical area of inspections shall be determined by the extent to which there is potential impact or effect upon clients as determined by the inspector. (I)

D. A facility found noncompliant with the standards of this regulation or governing statute shall submit an acceptable written plan of correction to the Department that shall be signed by the Administrator and returned by the date specified by the Department. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences (actual and similar); and
3. The actual or expected completion dates of those actions.

E. In accordance with S.C. Code Section 44-7-270, the Department may charge a fee for plan reviews, construction inspections, and licensing inspections.

## **SECTION 400 - ENFORCEMENT ACTIONS**

### **401. General**

When the Department determines that a facility is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of a facility, the Department, upon proper notice to the licensee, may impose a monetary penalty, and deny, suspend, or revoke its license.

### **402. Violation Classifications**

Violations of standards in this regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health and safety of the persons in the facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition, one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of this time may be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines to have a negative impact on the health, safety, or well-being of persons in the facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

D. Class I and II violations are indicated by notation after each applicable section, as “(I)” or “(II).” Sections not annotated in that manner denote Class III violations. A classification at the beginning of a section and/or subsection applies to all subsections following, unless otherwise indicated.

E. In arriving at a decision to take enforcement action, the Department will consider the following factors: specific conditions and their impact or potential impact on the health, safety, or well-being of the clients; efforts by the facility to correct cited violations; behavior of the licensee that reflects negatively on the licensee’s character, such as illegal or illicit activities; overall conditions of the facility; history of compliance; any other pertinent conditions that may be applicable to current statutes and regulations including participating in, or offering, or implying an offer to participate in the practice generally known as rebates, kickbacks, or fee-splitting arrangements. (I)

F. When a decision is made to impose monetary penalties, the Department may utilize the following schedule as a guide to determine the dollar amount:

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### Frequency of violation of standard within a thirty-six (36) month period:

#### MONETARY PENALTY RANGES

FREQUENCY	CLASS I	CLASS II	CLASS III
1st	\$200-1000	\$100-500	\$100
2nd	500-2000	200-1000	100-500
3rd	1000-5000	500-2000	200-1000
4th	5000	1000-5000	500-2000
5th	5000	5000	1000-5000
6th and more	5000	5000	5000

#### SECTION 500 - POLICIES AND PROCEDURES (II)

A. Policies and procedures addressing each section of this regulation regarding client care, rights, and the operation of the facility shall be developed, implemented, and revised as needed in order to accurately reflect actual facility operation and shall be documented and maintained in the facility. The policies and procedures shall address the provision of any special care offered by the facility. Information shall include the means by which the facility shall meet the specialized needs of the affected clients, such as those who are physically or developmentally disabled, in accordance with any laws which pertain to that service offered. The facility shall establish a time period for review, not to exceed two (2) years, of all policies and procedures and such reviews shall be documented. These policies and procedures shall be accessible at all times in hard copy or electronically.

B. By its application, the licensee agrees to comply with all standards in this regulation. The policies and procedures shall describe the means by which the facility shall ensure the standards described in this regulation are met.

#### SECTION 600 - STAFF AND TRAINING

##### 601. General (II)

A. A facility shall have appropriate staff in numbers and training to meet the needs and conditions of the clients. Training and qualifications for the tasks each staff member performs shall be in compliance with all professional standards and applicable federal and state laws.

B. Prior to being employed or contracted as a staff member or direct care volunteer by a facility, a person shall undergo a criminal background check pursuant to S.C. Code Section 44-7-2910. (I)

C. The facility shall maintain accurate and current information regarding all staff members and volunteers of the facility, including at least: address, phone number, and health, work, and training background. The facility shall assign duties and responsibilities to all staff members and volunteers in writing and in accordance with the facility's policy and the individual's capability.

**602. Administrator (II)**

A. Each facility shall have a full-time Administrator.

B. The facility Administrator shall be either a Qualified Intellectual Disability Professional (QIDP) or a licensed nursing home administrator and shall have the necessary authority and responsibility for management of the facility. Any change in the position of the Administrator shall be reported immediately by the governing board or owner to the Department in writing.

1. For facilities utilizing a QIDP in this capacity, such notification shall include, at a minimum, the name of the appointed individual, effective date of the appointment, educational background, professional experience, and professional certificates and/or licenses.

2. For facilities utilizing a licensed nursing home administrator in this capacity, such notification shall include, at a minimum, the name of the appointed individual, effective date of the appointment, and the number and expiration date of the current South Carolina Nursing Home Administrator's license or written verification of an emergency license.

C. The Administrator shall exercise judgment that reflects that he or she is in compliance with these regulations and shall demonstrate adequate knowledge of these regulations.

D. A staff member shall be designated, by name or position, in writing, to act in the absence of the Administrator, for example, a listing of the lines of authority by position title, including the names of the individuals filling these positions.

E. The Administrator shall have sufficient freedom from other responsibilities and duties to carry out the functions associated with the position.

F. The maximum number of facilities under the management of a single administrator will be determined based on the number of clients residing in the facilities, the extent of client needs, and the physical location of the facilities. Only facilities located within the same five (5) number zip code or no further than a twenty (20) miles radius of the facility shall be managed by a single administrator. No single administrator shall be responsible for more than a total of thirty-two (32) beds in multiple facilities unless approved by the Department.

**603. Direct Care Staff (I)**

A. The facility shall maintain personnel adequate in number and skill in the facility at all times when clients are present to ensure safety and supervise clients in accordance with their individual program plans. When there are no clients in the facility, a responsible staff member shall be available by telephone.

1. The facility's policy shall clearly define the authority, responsibility, and function of each category of personnel. (II)

2. Personnel shall be assigned only those duties for which they are trained.

B. The facility shall employ registered or practical nurses that are currently and continuously licensed to practice in South Carolina during the period of their employment. The facility shall maintain in the facility a

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copy of the license of each registered or practical nurse employed. Only licensed registered or practical nurses may perform duties requiring a registered or practical nurse. (II)

### **604. Staff (II)**

A. The facility shall employ or arrange for licensed nursing services which are sufficient to care for the client's health needs including individuals who are determined to need twenty-four-hour (24-hour) nursing care. If the facility utilizes only licensed practical nurses to provide health services, the facility shall have a contractual arrangement with a registered nurse to be available for verbal or onsite consultation to the licensed practical nurse in regard to the health aspects of the individual plans of care.

B. The facility shall maintain a responsible direct care staff person on duty and awake on a twenty-four-hour (24-hour) basis (when clients are present) to respond to injuries and symptoms of illness and to handle emergencies in each facility building housing clients for whom a physician has ordered a medical care plan or clients who are aggressive, assaultive, or security risks.

C. The facility shall maintain at least one (1) staff member to eight (8) clients or a fraction thereof on duty on the first and second shift. The facility shall maintain one (1) staff member to sixteen (16) clients or a fraction thereof on duty on the third shift. In facilities serving less than sixteen (16) clients, the facility shall maintain one (1) additional staff member per shift for each eight (8) non-mobile clients or a fraction thereof present in the facility.

D. The facility shall provide the necessary professional services required to implement each client's individual program plan.

E. The facility shall require staff members who operate motor vehicles that transport clients to possess a valid driver's license.

F. If the facility has a volunteer program, a facility staff person shall be designated to direct the program. Volunteers shall consult with licensed staff prior to any changes in client care or treatment. The facility may elect to prohibit volunteers to work in the facility.

### **605. Inservice Training (I)**

The facility shall require all staff members and volunteers to complete the necessary training to perform their duties and responsibilities. The facility shall document all inservice training. The following training shall be provided by appropriate resources, such as, licensed, registered, or certified persons; books; or electronic media, to all staff members prior to client contact and at a frequency determined by the facility, but at least annually unless otherwise specified by certificate, for example, cardiopulmonary resuscitation (CPR):

A. Orientation of the facility organization and physical plant;

B. Specific duties and responsibilities as outlined in the job description;

C. Provisions of S.C. Code Sections 43-35-5, et seq., "Omnibus Adult Protection Act," and S.C. Code Sections 44-81-10, et seq.;

D. "Bill of Rights for Residents of Long-Term Care Facilities" as well as other rights and assurances as required in this regulation;

E. Confidentiality of client information and records;

F. Emergency procedures and disaster preparedness to address various types of potential disasters such as evacuation, bomb threat, earthquake, flood, hurricane, tornado, and others within forty-eight (48) hours of initial client contact (See Section 1400);

G. Fire response training (See Section 1702);

H. CPR for designated staff members and direct care volunteers to ensure that there is a certified staff member or direct care volunteer present whenever clients are in the facility;

I. Management and care of individuals with contagious and/or communicable disease, for example, hepatitis, tuberculosis, or HIV infection;

J. Use of restraints that promote client safety, including alternatives to physical and chemical restraints, in accordance with the provisions of Section 1009 (for designated staff members only);

K. OSHA standards regarding blood-borne pathogens;

L. Infection control procedures; and

M. Depending on the type of clients, care of persons specific to the physical or mental condition being cared for in the facility, such as, mental illness or aggressive, violent, and/or inappropriate behavioral symptoms, to include communication techniques (cueing and mirroring), understanding and coping with behaviors, safety, and activities.

**606. Health Status (I)**

A. All staff members and direct care volunteers who have contact with clients, including food service staff members and direct care volunteers, shall have a health assessment within twelve (12) months prior to hire. The health assessment shall consist of an evaluation of the individual's health status by a physician, registered nurse, or other legally authorized healthcare provider pursuant to written standing orders and/or protocol approved by a physician's signature. The health assessment shall also include tuberculin skin testing as described in Section 1503.

B. If a staff member or direct care volunteer is working at multiple facilities operated by the same licensee, copies of records for tuberculin skin testing and the pre-employment health assessment shall be accessible at each facility.

**607. Volunteer Workers**

A. Facilities shall require that volunteers sign in and out with staff of the facility upon entering or leaving the facility. Volunteers shall wear legible name and title badges that are visible at all times while on duty.

B. Volunteers and paid feeding assistants (as defined in the federal regulations on paid feeding assistants) shall not be included in the minimum staffing requirements of Section 604.

**SECTION 700 - REPORTING**

**701. Accidents and/or Incidents**

A. A facility shall maintain a record of each accident and/or incident, including usage of mechanical or physical restraints, involving clients, staff members or volunteers, occurring in the facility or on the facility grounds. A facility's record of each accident and/or incident shall be documented, reviewed, investigated, and



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if necessary, evaluated in accordance with facility policies and procedures, and retained by the facility for six (6) years after the client's death, discharge, or transfer.

B. Accidents and/or incidents occurring to clients within the facility or on the facility grounds requiring reporting to the Department include, but are not limited to,:

1. Crime(s) against client;
2. Confirmed or suspected cases of abuse, neglect, or exploitation;
3. Medication error causing adverse reaction;
4. Hospitalization as a result of the accident and/or incident;
5. Elopement for more than twenty-four (24) hours or due to cognitive impairment;
6. Severe hematoma, laceration or burn requiring medical attention or hospitalization;
7. Fracture of bone or joint;
8. Severe injury involving use of restraints;
9. Attempted suicide; or
10. Fire.

C. A facility shall immediately report every serious accident and/or incident that results in client's death or significant loss of function or damage to a body structure, not related to the natural course of a client's illness or underlying condition or normal course of treatment, and resulting from an accident and/or incident occurring to client within the facility or on the facility's grounds to the client's next-of-kin or responsible party, the attending physician, and the Department via telephone, email, or facsimile within twenty-four (24) hours of the serious accident and/or incident.

D. A facility shall submit a written report of its investigation of every serious accident and/or incident to the Department within five (5) days of the serious accident and/or incident. A facility's written report to the Department shall provide at a minimum:

1. Facility name;
2. License number;
3. Type of accident and/or incident;
4. Date accident and/or incident occurred;
5. Number of clients directly injured or affected;
6. Client record number or last four (4) digits of Social Security Number;
7. Client age and sex;
8. Number of staff directly injured or affected;

9. Number of visitors directly injured or affected;

10. Name(s) of witness(es);

11. Identified cause of accident and/or incident;

12. Internal investigation results if cause unknown; and

13. Brief description of the accident and/or incident including the location of the occurrence and treatment of injuries.

E. A facility shall retain a report of every serious accident and/or incident with all of the information provided to the Department and the names, injuries, and treatments associated with each client, staff and/or visitor involved. A facility shall retain all serious accident and/or incident records for six (6) years after the client's death, discharge, or transfer.

F. The Administrator or his or her designee shall report every incident involving a client that leaves the premises for more than twenty-four (24) hours without notice to staff members of intent to leave to local law enforcement, the client's responsible party, and the Department. The Administrator or his or her designee shall immediately notify local law enforcement and the responsible party by telephone when a cognitively impaired client leaves the premises for any amount of time without notice to staff members.

G. The Administrator or his or her designee shall report changes in a client's condition, to the extent that serious health concerns and/or injuries, for example, fracture, behavioral changes or heart attack, are evident, to the attending physician and the responsible party immediately, not to exceed twenty-four (24) hours, consistent with the severity or urgency of the condition in accordance with facility policies and procedures. (I)

H. The Administrator or his or her designee shall report abuse and suspected abuse, neglect, or exploitation of clients to the Vulnerable Adults Unit of the South Carolina Law Enforcement Division (SLED) in accordance with S.C. Code Section 43-35-25.

**702. Fire and Disasters (II)**

A. The facility shall immediately notify the Department via telephone, email, or facsimile regarding any fire, regardless of size or damage that occurs in the facility, or any natural disaster in the facility which requires displacement of the clients or jeopardizes or potentially jeopardizes the safety of the clients.

B. The facility shall submit a complete written report regarding any fire or natural disaster to the Department to include the fire department reports, if any, within a time period as determined by the facility but not to exceed five (5) days.

**703. Communicable Diseases and Animal Bites (I)**

A. All cases of reportable diseases, animal bites, any occurrences such as epidemic outbreaks or poisonings, or other unusual occurrences that threaten the health and safety of clients or staff shall be reported in accordance with Regulation 61-20, Communicable Diseases.

B. The facility shall isolate any client who has a communicable disease which poses a threat to the health or safety of other clients, if ordered by the attending physician. If the attending physician determines the client cannot be managed at the facility or the physical layout prohibits isolation, the facility shall make arrangements for transfer of the client to an appropriate facility at the earliest practical time.

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### **704. Emergency Placements**

The facility shall notify the Department no later than the following workday when evacuees have been relocated to the facility by providing the names of the individuals received.

### **705. Facility Closure**

A. Prior to the permanent closure of a facility, the licensee shall notify the Department in writing of the intent to close and the effective closure date. Within ten (10) days of the closure, the facility shall notify the Department of the provisions for the maintenance of the facility records as required by regulation, the identity of those clients displaced, and the relocated site. On the date of closure, the current original license shall be returned to the Department.

B. In instances where a facility temporarily closes, the licensee shall notify the Department in writing within fifteen (15) days prior to temporary closure. In the event of temporary closure due to an emergency, the facility shall notify the Department in writing within twenty-four (24) hours of the closure. At a minimum this notification shall include, but not be limited to, the reason for the temporary closure, the manner in which the records are being stored, the identification of those clients displaced, the relocated site, and the anticipated date of reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards to the facility prior to its reopening.

### **706. Zero Census**

In instances when there have been no clients in a facility for any reason, for a period of ninety (90) days or more, the facility shall notify, in writing, the Department no later than the one-hundredth (100th) day following the date of discharge or transfer of the last active client. If the facility has no clients for a period longer than one (1) year, and there is a desire to reopen, the facility shall reapply to the Department and shall be subject to all licensing requirements at the time of that application, including Certificate of Need review and construction-related requirements for a new facility. Instances of zero census do not relieve the facility of the requirement to pay licensing fees that may be due during that time.

## **SECTION 800 - CLIENT RECORDS**

### **801. Content (II)**

A. A facility shall maintain adequate and complete records for each client. All entries shall be legibly written in ink or typed, dated, and signed, including title. If an entry is signed on a date other than the date it was made, the date of the signature shall also be entered. Although the use of initials in lieu of licensed nurses' signatures is not encouraged, initials shall be acceptable provided such initials can be readily identified by signature on each sheet on which the initials are used, or by signature on a master list which is maintained in the record at all times.

B. A minimum client record shall include the following:

#### **1. Identification data:**

a. Name, county, date of birth, sex, marital status, religion, county of birth, father's name, mother's maiden name, husband's or wife's name (if applicable), health insurance number, social security number, diagnosis, case number dates of care, name of the person providing information, and contact information for person(s) to be notified in case of emergency.

b. Admission agreement specifying available services and costs, and documentation of the explanation of the client bill of rights and grievance procedures.

- c. Name and telephone number of attending physician.
- d. Date and time of admission.
- 2. Consent form for treatment signed by the client or his or her legal representative.
- 3. Record of physical examination:
  - a. Physical examination, to include but not be limited to, diagnosis and identification of special conditions or care required, completed within one (1) month prior to or within forty-eight (48) hours after admission.
  - b. Physician's orders for medication, treatment, care, and diet, which must be reviewed and reordered at least once every three (3) months by the physician.
- 4. Individual Program Plan. An individual program plan shall be formulated or adopted within thirty (30) days of admission. This plan shall be updated as necessary, but at least annually, to reflect the current problems and needs of each client.
- 5. Social services. A social history, psychosocial assessment, and progress notes shall be documented and updated as necessary.
- 6. Activity services. An activity assessment and progress notes shall be documented and updated as necessary.
- 7. Dietary services. A dietary assessment and progress notes shall be documented and updated as necessary.
- 8. Nursing care record. Record of all pertinent factors pertaining to the client's condition.
- 9. Assessments and progress notes regarding psychological, behavioral, and therapeutic services shall be documented and updated as necessary by the interdisciplinary team.
- 10. Record of all physicians' visits subsequent to admission. Progress notes shall be entered after each visit to or by the physician. Physician's orders for medications, treatment, care, and diet shall be written in ink and signed by the prescriber or his or her designee.
- 11. Discharge summary.

**802. Physician Orders**

A. All physician orders for medication and treatment shall be recorded in the client's record, signed and dated by the physician or nurse receiving the orders. All orders, including verbal orders, shall be signed and dated by the prescribing physician or his or her designee within forty-eight (48) hours. (I)

B. No one, except a licensed nurse or pharmacist, may accept verbal orders from physicians for medication or nursing treatment and care. Verbal orders in other specialized departments or services, as authorized in facility policy and procedures, may be accepted by those departments or services, for example, orders pertaining to physical therapy may be received by a physical therapist. (I)

C. The use of a rubber stamp signature or electronic representation shall be acceptable under the following conditions:

- 1. The physician whose signature the rubber stamp represents is the only one who uses it; and

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2. The physician places in the administrative office of the facility a signed statement to the effect that he or she is the only one who has the rubber stamp and is the only one who will use it.

D. The use of rubber stamp signatures shall not be permitted on orders for “controlled substances.”

### **803. Individual Program Plan (II)**

The facility shall provide an individual program plan for each client that is developed by the interdisciplinary team made up of the professions, disciplines, and service areas necessary to identify each client’s needs and design appropriate programs, and shall be signed and dated by the client or his or her responsible party and a staff member on the interdisciplinary team. The individual program plan shall include the identified needs, the specific objectives to meet these needs, and the methods and schedules for implementing the designed programs. The individual program plan shall be updated and/or revised as changes in client needs occur, but not less than semi-annually by the interdisciplinary team.

### **804. Record Storage**

A. Records of clients are the property of the facility and shall not be removed without court order. Access to the medical record shall be granted to the legal guardian or any individual legally authorized in writing to act on behalf of the client.

B. On discharge, transfer, or death of a client, the medical records shall be completed within fifteen (15) days and filed in an inactive file in an orderly manner. Records shall be retained in a safe storage area or electronically and none shall be disposed of less than six (6) years after discharge, transfer, or death of a client.

C. Facilities that microfilm before six (6) years have expired shall film the entire record.

D. In the event of change of ownership, all client records shall be transferred to the new owner(s). (II)

E. Prior to the closing of a facility for any reason, the facility shall arrange for preservation of records to ensure compliance with these regulations. The facility shall notify the Department, in writing, describing these arrangements.

## **SECTION 900 - ADMISSION AND RETENTION (I)**

A. A facility shall make admission decisions based on a preliminary evaluation of the client that is conducted or updated by the facility or outside sources. The preliminary evaluation shall contain background information as well as current assessments of functional, developmental, behavioral, social, health, and nutritional needs and if the client is likely to benefit from placement in the facility.

B. A facility shall admit only those persons having a diagnosis of intellectual disability or other related condition and be in need of a continuous program of training directed toward:

1. The acquisition of behaviors and skills needed to function with greater independence; and/or

2. The prevention or deceleration of the loss of current functions.

C. Within one (1) month prior to or within forty-eight (48) hours after admission, all first time clients shall have a physical examination including the tuberculosis testing requirements of Section 1504.

D. Within one (1) month prior to or within forty-eight (48) hours of client admission, a dietitian, occupational therapist, or speech therapist shall conduct an assessment to determine the diet and food consistency the client can manage.

**SECTION 1000 - CLIENT CARE AND SERVICES****1001. Client Care Policies**

A. A facility shall designate a committee to develop client care policies. (II)

B. The facility's client care policy committee shall include the Administrator and designated professional representatives from the healthcare, dietary, pharmaceutical, social services, and psychological areas. (II)

C. A facility's review of client care policies shall occur at least once every two (2) years and shall cover at least the following:

1. Admission and transfer;
2. Dietary services;
3. Habilitation services;
4. Pharmaceutical services;
5. Physician services;
6. Nursing services;
7. Client rights; and
8. Behavior management.

D. Actual practices and procedures shall be in accordance with facility policy. (II)

E. A facility shall retain minutes of meetings of the client care policy committee relating to policies, procedures, or evaluations of the facility.

**1002. Training and Habilitation**

A. A facility shall provide each client with developmental training utilizing assessment-based programs to ensure achievement and maintenance of his or her highest level of self-care independence. A facility shall encourage and assist each client to achieve his or her highest level of independence. (I)

B. A facility shall provide each client with developmental training and/or assistance in the activities of daily living as his or her needs indicate.

C. A facility shall provide training and assistance on a continuum of care from the basic skills of proper body alignment and joint movement to preparation for independent community living.

**1003. Client Activities**

A. A facility shall provide a regular and ongoing program of varied, meaningful activities designed to meet the needs and interests of each client and to promote his or her physical, social, and emotional well-being. A facility shall provide activities that include appropriate group activities and activities for individuals with particular interests and needs. A facility shall make activities available to give the clients an opportunity for participation. A facility shall not force clients to participate in any activity. A facility shall provide activities in accordance with the client's individual program plan.

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B. A facility shall utilize community resources and volunteers to the fullest possible extent.

C. A facility shall provide flexible visiting hours and encourage visitation by relatives and friends, with minimal restrictions. A facility shall grant reasonable exceptions to visiting hours.

D. A facility shall provide ample space, supplies, and equipment for all pertinent activities. Examples include: books, magazines, newspapers, games, arts and crafts, radio, and television.

E. If a facility implements a pet therapy program, the following guidelines shall be met:

1. Pets utilized for the program shall be free of fleas, ticks, and intestinal parasites, and have been screened by a veterinarian prior to client contact, and shall present no apparent threat to the health, safety, and well-being of the clients;

2. Pets utilized for the program shall be inoculated or vaccinated as required by law, with written verification of current inoculations on file at the facility; and

3. Pets shall be properly cared for and housed, if applicable.

### **1004. Therapeutic and Behavioral Services**

A. A facility shall provide therapeutic services such as physical therapy, occupational therapy, and speech therapy based on each client's individual needs. A facility shall provide these therapies based upon the interdisciplinary team's recommendation and shall be administered by qualified persons. A facility shall obtain a physician's order for physical therapy evaluation and/or treatment.

B. A facility shall provide psychological and behavioral management services for clients as needed and recommended by the facility's interdisciplinary team.

### **1005. Physician Services**

A. An annual physical examination by a physician, physician assistant, or nurse practitioner shall be performed on each client in addition to preventative and general care as deemed necessary by the attending physician.

B. The attending physician shall review all prescribed medications at least once every three (3) months.

C. Physician's progress notes shall be recorded as needed and shall be consistent with the observed condition of the client.

D. Special exams or consultations. A facility shall develop written policies and procedures regarding the acceptance of unsigned radiological, laboratory, or other consultative reports requested by a physician.

E. A facility shall not, under any circumstances, restrict client, guardian, or representative choice in attending physician coverage provided the physician is licensed to practice in South Carolina and agrees to provide medical services required by facility policy and applicable regulations.

F. A facility shall have at least one (1) licensed physician available on call at all times.

### **1006. Dental Services**

A. Within one (1) month of client admission, a physician, dentist, or registered nurse shall conduct an oral assessment on each client to determine the condition of gums and teeth.

B. The facility shall provide clients with daily dental care assistance as necessary.

C. A facility shall maintain names of dentists who can render emergency and other dental treatments. A facility shall encourage clients to utilize dental services of their choice.

**1007. Oxygen Therapy**

A. A facility shall provide oxygen for the treatment of clients when ordered by a physician or other legally authorized healthcare provider. (I)

B. A facility shall post “No Smoking” signs conspicuously when oxygen is dispensed, administered, or stored. A facility shall appropriately secure all cylinders in an upright position.

**1008. Personal Hygiene (II)**

Each client shall be assured of good personal hygiene, clean clothing, removal or trimming of facial hair, trimming of nails, and freedom from offensive body odors.

**1009. Safety Restraints for Behavioral or Medical Conditions (I)**

A. A facility shall develop written policies and procedures on restraints that may be used.

B. The client’s individual program plan and/or the physician’s order shall include the length of time the restraint is to be used, but use of restraints shall not be used for more than twelve (12) consecutive hours.

C. The facility may employ safety restraints only:

1. As an integral part of an individual program plan intended to manage and eliminate the behaviors for which the restraint is utilized; or

2. As an emergency measure with a physician’s order at the time they are applied; or

3. As a health-related protection prescribed by a physician.

D. If a client residing in a facility without twenty-four (24) hour nursing personnel requires continuous physical restraint for more than twenty-four (24) hours, the client shall be transferred to a facility which provides the specialized services required and which employs twenty-four (24) hour nursing personnel.

**SECTION 1100 - RIGHTS AND ASSURANCES**

A. A facility shall comply with all current state, federal, and local laws and regulations concerning client care, treatment, procedures, and/or services, client rights and protections, and privacy and disclosure requirements, such as, S.C. Code Section 44-81-10, Bill of Rights for Residents of Long-Term Care Facilities, and S.C. Code Sections 43-35-5, et seq., Omnibus Adult Protection Act. (I)

B. A facility shall prominently display inside the facility all posted notices required in the Bill of Rights for Residents of Long-Term Care Facilities, the Omnibus Adult Protection Act, and other notices as required by law.

C. A facility shall have a grievance and complaint procedure to be exercised on behalf of the clients to enforce the Bill of Rights for Residents of Long-Term Care Facilities that includes the address and telephone number of the Department and a provision prohibiting retaliation against the client should the grievance right be exercised.



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Clients shall be made aware of this procedure and it shall be posted adjacent to the Bill of Rights for Residents of Long-Term Care Facilities.

### **SECTION 1200 - MEDICATION MANAGEMENT**

#### **1201. General (I)**

A. Medications, including controlled substances, medical supplies, and those items necessary for the rendering of first aid, shall be properly managed in accordance with state, federal, and local laws and regulations. Such management shall address the securing, storing, and administering of medications, medical supplies, first aid supplies, and biologicals, their disposal when discontinued or expired, and their disposition at discharge, transfer, or death of a client.

B. Applicable medication-related reference materials such as Physicians' Desk Reference and information on the use of medications shall be readily available at each staff work area in order to provide staff members with adequate information concerning medications. At least one (1) such reference in the facility shall have been published within the previous year and none shall be older than three (3) years.

#### **1202. Medication and Treatment Orders (I)**

A. Medication and treatment, to include oxygen, shall be administered to clients only upon orders (to include standing orders) of a physician or other legally authorized healthcare provider.

B. All orders (including verbal) shall be received only by licensed nurses or other legally authorized healthcare providers, and shall be authenticated and dated by a physician or other legally authorized healthcare provider within forty-eight (48) hours. This restriction shall not be construed to prohibit the issuance and acceptance of verbal orders in other specialized departments or services in accordance with facility policies and procedures, for example, orders pertaining to respiratory therapy modalities may be given to respiratory therapy personnel and physical therapy orders to physical therapists.

C. Physicians' orders for medication, treatment, care, and diet shall be reviewed and reordered no less frequently than every three (3) months.

D. All medication orders that do not specifically indicate the number of doses to be administered or the length of time the medication is to be administered shall automatically be stopped in accordance with facility policies and procedures.

#### **1203. Administering Medication (I)**

A. Medications shall be administered in accordance with orders from the attending physician, dentist, or other individual legally authorized to prescribe medications.

B. Medications and medical supplies ordered for a specific client shall not be provided to or administered to any other client.

C. Medications shall be administered in accordance with state practice acts by individuals licensed to administer medications, including a licensed respiratory care practitioner. The administration of medication shall include, but not be limited to,:

1. Removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container);

2. Verifying the dosage with the physician's orders;

3. Giving the individual dose to the proper client;
4. Monitoring the ingestion or application of the dose; and

5. Promptly recording on the medication administration records, as it is administered, the date, time, dose given, mode of administration, and identification of the individual who administered the medication.

D. Doses of medication shall be administered by the same licensed nurse or other legally authorized healthcare provider who prepared them for administration. Preparation of doses for more than one (1) scheduled administration shall not be permitted.

E. Self-administration of medications by clients shall be permitted only on the specific written orders of the client's attending physician or other legally authorized healthcare provider, verified by observation of the client by a licensed nurse, and recorded on the medication administration records by that same person. Facilities may elect to prohibit self-administration. The facility shall not allow clients to self-administer controlled substances.

F. The facility shall maintain a daily documented review of all scheduled controlled substances, Schedules II, III, IV, and V, by nurses including verification that the count was correct, and if incorrect, an explanation of the discrepancy and any corrective actions taken. The review shall include controlled substances in an unsealed emergency medication kit or cart.

G. Non-licensed facility staff members may administer nonlegend drugs, such as, aspirin, milk of magnesia, mineral oil, medicated shampoo, provided that these staff members have been trained to perform these tasks in the proper manner by individuals licensed to administer medications and the training is documented and maintained in the record of the non-licensed staff member.

**1204. Pharmacy Services (I)**

A. The facility shall maintain a written agreement with a consulting pharmacist to direct, supervise, and be responsible for pharmacy services in the facility in accordance with accepted professional principles and appropriate state, federal, and local laws and regulations.

B. At least once every three (3) months the pharmacist shall:

1. Review the medication profile for each client for potential adverse reactions, allergies, interactions and laboratory modifications. The attending physician shall be advised of recommended changes in the medication regimen, medication therapy duplication, incompatibilities or contraindications;

2. Review medication storage areas and emergency medication kits;

3. Review all medications in the facility for expiration dates and ensure the removal of discontinued or expired medications from use;

4. Verify proper storage of medications and biologicals in the facility and make recommendations concerning the handling, storing, and labeling of medications;

5. Examine the controlled substances records and affirm to the Administrator that this inventory is correct; and

6. Assess the facility's pharmaceutical services to ensure the services have been properly implemented and maintained and submit to the Administrator a written report of each pharmaceutical assessment including recommendations.

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C. In addition to the services enumerated in Section 1204.B, the pharmacist shall participate in the formulation of pharmacy service policies and procedures and coordinate pharmacy services.

D. Facilities that maintain stocks of legend medications and biologicals for client use within the facility shall obtain and maintain from the South Carolina Board of Pharmacy a valid, current, non-dispensing drug outlet permit, displayed in a conspicuous place in the facility.

### **1205. Medication Containers (I)**

A. The labeling of medications and biologicals shall be based on currently accepted professional principles. Labels shall identify, at a minimum, the name of the medication or biological, strength, and lot number. As appropriate, labels shall include client name and any identifying number. The prescribing physician's name and directions for use shall be on the label. If a physician or other authorized healthcare provider changes the dosage of a medication, the medication shall be returned to the pharmacy for relabeling. In lieu of this procedure, it is acceptable to attach a label to the container that states, "Directions changed; refer to MAR and physician or other authorized healthcare provider orders for current administration instructions."

B. Medication containers that have been damaged, compromised, or without labels, or that have damaged, incomplete, or makeshift labels, are considered to be misbranded and are prohibited and shall be destroyed in accordance with Section 1209.

C. Medications for each client shall be maintained in the original container(s) including unit dose systems. Opening blister packs to remove medications for destruction or adding new medications for administration, except under the direction of a pharmacist, is prohibited.

### **1206. Medication Storage (I)**

A. Medications shall be stored and safeguarded in a locked medicine preparation room or locked cabinet at or near the staff work area to prevent access by unauthorized individuals. Medication carts utilized for storage shall be locked when not in use. Expired or discontinued medications shall not be stored with current medications. Storage areas shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life.

B. Medications requiring refrigeration or freezing shall be stored in a refrigerator or freezer as appropriate at the temperature range established by the manufacturer used exclusively for that purpose in the medicine preparation room, or in a locked refrigerator used exclusively for medications. Food and drinks shall not be stored in the same refrigerator or freezer in which medications and biologicals are stored. Refrigerators and freezers shall be provided with a thermometer accurate to plus or minus two (2) degrees Fahrenheit.

C. Medications shall be stored:

1. Under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, safety, and security;

2. In accordance with manufacturer's directions and in accordance with all applicable state, federal, and local laws and regulations;

3. Separately from poisonous substances, such as cleaning and germicidal agents, or body fluids;

4. In a manner that provides for separation between topical and oral medications, and which provides for separation of each client's medication; and

5. In medicine preparation rooms or cabinets that are well-lighted and of sufficient size to permit orderly storage and preparation of medications. Keys to the medicine preparation room, cabinet, refrigerator or medication cart at the staff work area shall be under the control of a designated licensed nurse.

D. Nonlegend medications that can be obtained without a prescription such as aspirin, milk of magnesia, and mineral oil, may be retained and shall be labeled as stock in the facility for administration as ordered by a physician or other legally authorized healthcare provider.

E. The medications prescribed for a client shall be protected from use by any other individuals. For those clients who have been authorized by a physician or other legally authorized healthcare provider to self-administer medications, such medications shall be stored in accordance with facility policies and procedures.

F. Prescribed and over-the-counter medications may be maintained at bedside upon physician orders if kept in an individual cabinet or compartment that is locked, such as the drawer of the client's night stand, in the room of each client who has been authorized in writing to self-administer by a physician or other legally authorized healthcare provider, in accordance with facility policies and procedures.

G. Medications listed in Schedule II of the Federal "Controlled Substances Act" shall be stored in separately locked, permanently affixed, compartments within a locked medicine preparation room, cabinet, or medication cart, unless otherwise authorized by a change in the state or federal law pertaining to the unit dose or multi-dose system.

#### **1207. Medication Control and Accountability (I)**

A. Records of receipt, administration, and disposition of all medications shall be maintained in sufficient detail to enable an accurate reconciliation. The pharmacist or designee shall verify that drug records are in order and that an account of all drugs is maintained.

B. Medications that have been discontinued may be secured in the staff work area with a written order by the attending physician. Such medications shall not be held beyond a ninety (90) day period unless so ordered by the physician or other legally authorized healthcare provider, but in no case held beyond the expiration date of the medication.

C. Separate control sheets shall be maintained on any controlled substances listed in Schedules II, III, IV, and V, State and Federal "Controlled Substances Act." This record shall contain the following information: date, time administered, name of client, dose, signature of individual administering, name of physician or other legally authorized healthcare provider ordering the medication and all scheduled controlled substances balances (See Section 1203.F).

#### **1208. Emergency Medications (I)**

If the facility determines a need for an emergency medication kit or cart, the kit or cart shall comply with the provisions of Regulation 61-4, Controlled Substances.

#### **1209. Disposition of Medications (I)**

A. Upon discharge of a client, unused medications, biologicals, medical supplies, and solutions may be released to the client, family member, or responsible party, unless prohibited by facility policies and procedures, the attending physician, or other legally authorized healthcare provider.

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B. When client medications, biologicals, medical supplies, or solutions have deteriorated or exceeded their expiration date or there are partially unused medications, or medication containers are misbranded, they shall be destroyed by a licensed nurse or other legally authorized healthcare provider.

C. When non-controlled legend drugs, biologicals, medical supplies, and solutions are destroyed, the following shall be documented: date of destruction, medication name, strength, quantity, mode of destruction, and the name of the individual performing the destruction and witnessed by a licensed nurse or pharmacist.

D. The destruction of controlled substances shall be accomplished pursuant to the requirements of Regulation 61-4.

### **SECTION 1300 - VITAL STATISTICS**

#### **1301. General**

Facilities shall comply with Regulation 61-19, Vital Statistics, with regard to vital statistics.

#### **1302. Death Certificates**

Facilities shall file death certificates in accordance with R.61-19 and the South Carolina Code of Laws.

### **SECTION 1400 - EMERGENCY PROCEDURES AND DISASTER PREPAREDNESS**

#### **1401. Disaster Preparedness (II)**

A. All facilities shall develop, by contact and consultation with their county emergency preparedness agency, a suitable written plan for actions to be taken in the event of a disaster and/or emergency evacuation. In the event of mass casualties, the facility shall provide resources as available. The facility shall update its plan annually or as needed, and shall rehearse it at least annually. The facility shall maintain a record of the rehearsal, including its date and time, a summary of actions and recommendations, and the names of the participants.

B. The disaster and emergency evacuation plan shall include, but not be limited to:

1. A sheltering plan to include:

a. Facility occupancy at the time of the disaster;

b. Name, address, and phone number of the sheltering facility or facilities to which the clients will be relocated during a disaster; and

c. A letter of agreement signed by an authorized representative of each sheltering facility which shall include: the number of relocated clients that can be accommodated; sleeping, feeding, and medication plans for the relocated clients; and provisions for accommodating relocated staff members and volunteers. The letter shall be updated with the sheltering facility at least every three (3) years and whenever significant changes occur. For those facilities located in Beaufort, Charleston, Colleton, Horry, Jasper, and Georgetown counties, at least one (1) sheltering facility shall be located in a county other than these counties.

2. A transportation plan, to include agreements with entities for relocating clients, which addresses:

a. The relocation needs of the clients and staff contingent upon the type of disaster or emergency confronted;

b. Procedures for providing appropriate medical support, food, water, and medications during relocation based on the needs and number of the clients; and

c. Estimated time to accomplish the relocation during normal conditions; and

d. Primary and secondary routes to be taken to the sheltering facility.

3. A staffing plan for the relocated clients, to include:

a. How care will be provided to the relocated clients, including licensed and nonlicensed staff members that will meet the staffing requirements of Section 604 for clients who are relocated;

b. Prearranged transportation arrangements to ensure staff members are relocated to the sheltering facility; and

c. A co-signed statement by an authorized representative of the sheltering facility if staffing, bedding, or medical supplies are to be provided by the sheltering facility.

C. In instances where there are proposed changes in licensed bed capacity, the disaster or emergency evacuation plan shall be updated to reflect the new licensed bed capacity and submitted to the Department along with the application for bed capacity change.

D. Only those facilities located in the coastal counties of Beaufort, Charleston, Colleton, Horry, Jasper, or Georgetown may request exemption from an emergency evacuation order.

1. Facilities in the above counties may elect to seek an exemption from having to evacuate the facility in the event the Governor issues a Mandatory Evacuation Order for an impending hurricane. Facilities located in these counties may request an exemption from an emergency evacuation order if the facility has previously submitted the following to the Department:

a. A Critical Data Sheet, updated annually, that certifies emergency power supply is available for a minimum of seventy-two (72) hours, a seventy-two (72) hour supply of food, water, and medical supplies is on site, and that adequate staff will be available and on duty to provide continual care for the clients;

b. A copy of the engineer's report concerning the wind load the facility should withstand; and

c. A current approved evacuation plan prior to a declared emergency.

2. Once the prerequisites are met and an emergency has been declared, the facility shall draw down the census of the facility and then contact the Department to request an exemption from the evacuation order.

3. A facility shall comply with the mandatory evacuation order unless an exemption from evacuation of the facility for a specific storm has been received from the Department.

**1402. Emergency Call Numbers**

A facility shall post emergency call data in a conspicuous place and shall include at least the telephone numbers of fire and police departments, ambulance service, and the poison control center. Other emergency call information shall be available, to include the names, addresses, and telephone numbers of staff members and volunteers to be notified in case of emergency.

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### 1403. Continuity of Essential Services (II)

A facility shall maintain a written plan to be implemented to ensure the continuation of essential client support services for such reasons as power outage, water shortage, or in the event of the absence from work of any portion of the workforce resulting from inclement weather or other causes.

## SECTION 1500 - INFECTION CONTROL AND ENVIRONMENT

### 1501. Staff Practices (I)

Staff and volunteer practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures and practices shall be in compliance with applicable regulations and guidelines of the Occupational Safety and Health Administration, for example, the Bloodborne Pathogens Standard; the Centers for Disease Control and Prevention, for example, Immunization of Health-Care Workers: Recommendations of the Advisory Committee on Immunization Practices and the Hospital Infection Control Practices Advisory Committee; Regulation 61-105; and other applicable state, federal and local laws and regulations.

### 1502. Tuberculosis Risk Assessment (I)

A. All facilities shall conduct an annual tuberculosis risk assessment in accordance with CDC guidelines to determine the appropriateness and frequency of tuberculosis screening and other tuberculosis related measures to be taken.

B. The risk classification, such as low risk or medium risk, shall be used as part of the risk assessment to determine the need for an ongoing TB screening program for staff and clients and the frequency of screening. A risk classification shall be determined for the entire facility. In certain settings, such as, healthcare organizations that encompass multiple sites or types of services, specific areas defined by geography, functional units, client population, job type, or location within the setting, may have separate risk classifications.

### 1503. Staff Tuberculosis Screening (I)

A. Tuberculosis Status. Prior to date of hire or initial client contact, the tuberculosis status of direct care staff shall be determined in the following manner in accordance with the applicable risk classification:

#### B. Low Risk:

1. Baseline two-step Tuberculin Skin Test (TST) or a single Blood Assay for *Mycobacterium tuberculosis* (BAMT): All staff (within three (3) months prior to contact with clients) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline.

2. Periodic TST or BAMT is not required.

3. Post-exposure TST or a BAMT for staff upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case or suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

#### C. Medium Risk:

1. Baseline two-step TST or a single BAMT: All staff (within three (3) months prior to contact with clients) unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly employed staff has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered to serve as the baseline.

2. Periodic testing (with TST or BAMT): Annually, of all staff who have risk of TB exposure and who have previous documented negative results. Instead of participating in periodic testing, staff with documented TB infection (positive TST or BAMT) shall receive a symptom screen annually. This screen shall be accomplished by educating the staff about symptoms of TB disease (including the staff and/or direct care volunteers responses), documenting the questioning of the staff about the presence of symptoms of TB disease, and instructing the staff to report any such symptoms immediately to the Administrator or director of nursing. Treatment for latent TB infection (LTBI) shall be considered in accordance with CDC and Department guidelines and, if recommended, treatment completion shall be encouraged.

3. Post-exposure TST or a BAMT for staff upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all staff who have had unprotected exposure to an infectious TB case or suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

**D. Baseline Positive or Newly Positive Test Result:**

1. Staff with a baseline positive or newly positive test result for *M. tuberculosis* infection (such as TST or BAMT) or documentation of treatment for latent TB infection (LTBI) or TB disease or signs or symptoms of tuberculosis, such as, cough, weight loss, night sweats, or fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). These staff members will be evaluated for the need for treatment of TB disease or latent TB infection (LTBI) and will be encouraged to follow the recommendations made by a physician with TB expertise (such as the Department's TB Control program).

2. Staff with positive TST results (regardless of when that conversion was first documented) shall document that conversion, document a subsequent negative chest radiograph, and receive a negative assessment for signs and symptoms of TB before they may be hired or admitted, as appropriate.

3. Staff who are known or suspected to have TB disease shall be excluded from work, required to undergo evaluation by a physician, and permitted to return to work only with approval by the Department TB Control program. Repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician.

**1504. Client Tuberculosis Screening (I)**

A. Tuberculosis Status. Prior to admission, the tuberculosis status of a client shall be determined in the following manner in accordance with the applicable risk classification:

**B. For Low Risk and Medium Risk:**

1. Admission/Baseline two-step TST or a single BAMT: All clients within one (1) month prior to admission unless there is a documented TST or a BAMT result during the previous twelve (12) months. If a newly-admitted client has had a documented negative TST or a BAMT result within the previous twelve (12) months, a single TST (or the single BAMT) can be administered within one (1) month prior to admission to the facility to serve as the baseline.

2. Periodic TST or BAMT is not required.



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3. Post-exposure TST or a BAMT for clients upon unprotected exposure to *M. tuberculosis*: Perform a contact investigation when unprotected exposure is identified. Administer one (1) TST or a BAMT as soon as possible to all clients who have had exposure to an infectious TB case or suspect. If the TST or the BAMT result is negative, administer another TST or a BAMT eight to ten (8 to 10) weeks after that exposure to *M. tuberculosis* ended.

### C. Baseline Positive or Newly Positive Test Result:

1. Clients with a baseline positive or newly positive test result for *M. tuberculosis* infection (such as TST or BAMT) or documentation of treatment for latent TB infection (LTBI) or TB disease or signs or symptoms of tuberculosis, such as, cough, weight loss, night sweats, or fever, shall have a chest radiograph performed immediately to exclude TB disease (or evaluate an interpretable copy taken within the previous three (3) months). Routine repeat chest radiographs are not required unless symptoms or signs of TB disease develop or unless recommended by a physician. These clients will be evaluated for the need for treatment of TB disease or latent TB infection (LTBI) and will be encouraged to follow the recommendations made by a physician with TB expertise (such as the Department's TB Control program).

2. Clients with positive TST results (regardless of when that conversion was first documented) shall document that conversion, document a subsequent negative chest radiograph and receive a negative assessment for signs and symptoms of TB before they may be admitted, as appropriate.

3. Clients who are known or suspected to have TB disease shall be transferred from the facility if the facility does not have an Airborne Infection Isolation room (See Section 100.E), required to undergo evaluation by a physician, and permitted to return to the facility only with approval by the Department's TB Control program.

## 1505. Housekeeping (II)

A. A facility and its grounds shall be uncluttered, clean, and free of vermin and offensive odors. A facility shall maintain sufficient cleaning supplies and equipment at all times. Housekeeping shall at a minimum include:

1. Cleaning each specific area, including storage areas, of the facility. Accumulated waste material shall be removed daily or more often if necessary;

2. Cleaning and disinfection, as needed, of equipment used and/or maintained in each area. Cleaning and disinfection shall be appropriate to the area and the equipment's purpose or use and shall include client room preparation for new occupants;

3. Storage and/or use of chemicals indicated as harmful on the product label, cleaning materials, and supplies shall be secure and inaccessible to clients;

4. Cleaning of all exterior areas, such as, porches and ramps, and removal of safety impediments such as snow, ice, and standing water; and

5. Keeping facility grounds free of weeds, rubbish, overgrown landscaping, and other potential breeding sources for vermin.

B. Dry dusting and dry sweeping are prohibited.

## 1506. Clean and Soiled Linen and Clothing (II)

A. Clean Linen and Clothing.

1. Proper storage facilities shall be provided for keeping clean linen, restraints, and client clothes in sanitary condition prior to use. Clean linen and clothing storage rooms shall be used only for the storage of clean linen and clothing. Clean linen and clothing shall be separated from storage of other materials.

2. A supply of clean, sanitary linen and clothing shall be available at all times.

3. Clean linen and clothing shall be transported in a sanitary manner, such as, covered.

**B. Soiled Linen and Clothing.**

1. A soiled linen storage room shall be provided.

2. Soiled linen and clothing shall neither be sorted, rinsed, nor washed outside the laundry service area.

3. Provisions shall be made for collecting and transporting soiled linen and clothing.

4. Soiled linen and clothing shall be kept in enclosed or covered nonabsorbent containers or washable laundry bags.

5. Soiled linen and clothing shall not be transported through client rooms, kitchens, food preparation or storage areas.

6. If linen chutes are used, the soiled linen and clothing shall be enclosed in bags before placing in the chute.

7. Facilities shall utilize Standard Precautions in the handling of all soiled linen and clothing. Labeling or color-coding of bagged soiled linen and clothing is sufficient provided all on-site or off-site handlers recognize the containers as requiring compliance with Standard Precautions.

**1507. Contaminated Dressings and Pathological Waste (I)**

A. A facility shall dispose of all contaminated dressings, pathological, and other similar waste by incineration or other approved means. A facility shall clearly identify containers for contaminated waste as such and shall not be accessible by unauthorized persons.

B. A facility shall dispose of dressings and contaminated wastes in client rooms only if such wastes are placed in a closed, clearly identified container, double bagged, and removed from the client room after attending the client.

**1508. Refuse Disposal**

A. A facility shall deposit all garbage and refuse in suitable watertight containers. A facility shall dispose of rubbish and garbage in accordance with local requirements.

B. A facility shall cover and store refuse containers outside on an approved platform constructed of concrete, wood, or asphalt and secured in such a manner so as to prevent overturning by animals, the entrance of flies, or the creation of a nuisance. A facility shall thoroughly clean garbage and trash containers as necessary to prevent the creation of a nuisance.

**1509. Cleaning and Use of Equipment and Supplies**

A facility shall disinfect or sterilize medical equipment coming into contact with clients after each use to maintain such equipment in a clean and sanitary condition. Disposable materials and equipment shall be used

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by one (1) client only, in accordance with manufacturer's recommendations and then disposed of in an acceptable manner. (II)

### **SECTION 1600 - MEAL SERVICE**

#### **1601. General (II)**

A. Facility meal service programs shall be inspected and approved by the Department, and shall be regulated, inspected, and permitted pursuant to Regulation 61-25, Retail Food Establishments. Facilities preparing food on-site and licensed for sixteen (16) beds or more subsequent to the promulgation of these regulations shall have kitchen equipment which meets the requirements of R.61-25. Existing facilities with sixteen (16) licensed beds or more may continue to operate with equipment currently in use; however, only certified or classified equipment shall be used when replacements are necessary. Those facilities with fifteen (15) beds or less shall be regulated pursuant to R.61-25 with certain exceptions in regard to food equipment (may utilize non-certified or non-classified food equipment).

B. When meals are catered to a facility, such meals shall be obtained from a retail food establishment permitted by the Department, pursuant to R.61-25.

C. If food is prepared at a central kitchen and delivered to separate facilities or separate buildings and/or floors of the same facility, the method of transportation shall be in compliance with all applicable sections of R.61-25 and approved by the Department.

D. Food shall be prepared by methods that conserve the nutritive value, flavor and appearance. The food shall be palatable, properly prepared, and sufficient in quantity and quality to meet the daily nutritional needs of the clients in accordance with written dietary policies and procedures.

E. Efforts shall be made to accommodate the religious, cultural, and ethnic preferences of each client and consider variations of eating habits, unless the orders of a physician or other legally authorized healthcare provider contraindicate.

F. Nourishment stations, if provided, shall contain a handwashing sink equipped for handwashing, equipment for serving nourishment between scheduled meals, refrigerator, and storage cabinets.

G. At least one (1) dietary refrigerator shall be provided on each client floor and shall have a thermometer accurate to plus or minus two (2) degrees Fahrenheit. In addition, if a refrigerator(s) is in a client room for food storage, the same thermometer requirement applies.

H. Medications, nursing supplies, or biologicals shall not be stored in the dietary department or any refrigerator or storage area utilized by the dietary department.

I. The preparation of meals shall only be conducted in areas of the facility that have been approved by the Department. Extended operations of a facilities meal service program shall not be located in rooms used for other purposes, for example, sleeping, living, laundry.

#### **1602. Food and Food Storage (II)**

A. At least a three (3) day supply of staple foods and a two (2) day supply of perishable foods shall be maintained on the premises. Supplies shall be appropriate to meet the requirements of the menu and prescribed special or therapeutic diets.

B. All food in the facility shall be from food sources approved or considered satisfactory by the Department, and shall be clean, wholesome, free from spoilage, free from adulteration and misbranding, and safe for human consumption. Home canned food usage shall be prohibited. (I)

**1603. Food Equipment and Utensils (II)**

Drinking containers made of porous materials shall not be used unless the containers have smooth liners which can be easily cleaned. These containers and/or liners shall be sanitized at least weekly or more often as necessary and identified for individual client use. Disposable containers shall be replaced at least weekly.

**1604. Meals and Services**

A. The dining area shall provide a comfortable and relaxed environment. Table service shall be planned in an attractive and colorful manner for each meal.

B. A minimum of three (3) nutritionally-adequate meals in each twenty-four-hour (24-hour) period shall be provided for each client unless otherwise directed by the client’s physician or other legally authorized healthcare provider. Clients shall be allowed to choose between a variety of foods offered. Personal preferences as to the times clients receive their meals may be honored. This may include offering smaller, more frequent meals, or snacks, or postponing meals to honor a client’s request, such as, to sleep or not to eat. The condition of the client shall dictate the manner in which meal service is adjusted to suit personal preferences. Meal service systems, such as, four (4) meal plans and/or buffet dining, may be offered in order to facilitate the client receiving a variety of foods. (II)

C. Not more than fourteen (14) hours shall elapse between the scheduled serving of the evening meal and breakfast the following day. (II)

**EXCEPTION:** There may be up to sixteen (16) hours between the scheduled serving of the evening meal and breakfast the following day if approved by the client’s attending physician and the client, and if a nourishing snack is provided after the evening meal.

D. Food shall be cut, chopped, ground or blended to meet individual needs.

E. The same menu items shall not be repetitively served during each seven (7) day period except to honor specific, individual client requests. Substitutes of similar nutritive value shall be offered to clients who refuse food served.

F. Food and snacks shall be available and offered between meals at no additional cost to the clients. Individual client food and snack preferences shall be honored when reasonable. (II)

**1605. Meal Service Staff (II)**

A. Sufficient staff members shall be available to serve food and to provide individual attention and assistance, as needed.

B. The facility shall maintain trained staff members to supervise the preparation and serving of the proper diet to the clients including having sufficient knowledge of food values in order to make appropriate substitutions when necessary.

C. Clients shall not be permitted to engage in food preparation unless the following criteria are met:

1. The individual program plan of the client has indicated food preparation as suitable and/or beneficial to the client; and

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2. The client is directly supervised by staff members, for example, a staff member in the food preparation area with the client.

D. Meal service staff shall have the responsibility of accompanying the food to the floor, when necessary.

### **1606. Diets (II)**

A. All diets shall be prescribed, dated and signed by the physician and be prepared in conformance with physicians' orders giving consideration to individual client preferences.

B. The necessary equipment for preparation of client diets shall be available and utilized.

C. A diet manual published within the previous five (5) years shall be available and shall address at a minimum:

1. Food sources and food quality;

2. Food protection storage, preparation and service;

3. Meal service staff health and cleanliness;

4. Dietary Reference Intakes (DRIs) of the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences food serving recommendations; and

5. Menu planning, including plans appropriate to special needs, such as, diabetic, low-salt, low-cholesterol, or other diets appropriate for clients.

### **1607. Menus**

A. Menus shall be planned and written at a minimum of four (4) weeks in advance and dated as served. The current week's menu, including routine and special diets and any substitutions or changes made, shall be readily available. At least the current day's menu shall be posted in one (1) or more conspicuous places in a public area. All substitutions made on the master menu shall be recorded in writing. Cycled menus shall be rotated so that the same weekly menu is not duplicated for at least a period of two (2) weeks.

B. Each menu shall be approved in writing by a dietitian before meals are prepared and served.

C. A file of tested recipes, adjusted to appropriate yield, shall correspond to items on the posted menus.

### **1608. Ice and Drinking Water (II)**

A. Ice shall be prepared on-site from a water system in accordance with Regulation 61-58, State Primary Drinking Water Regulations, or shall come from a source permitted under Regulation 61-54, Wholesale Commercial Ice Manufacturing. Ice shall be available and precautions taken to prevent contamination. The ice scoop shall be stored in a sanitary manner outside the ice container in an inverted self-draining position and allowed to air dry. The ice scoop and holding tray shall be sanitized daily.

B. Potable drinking water shall be available and accessible to clients at all times.

C. The use of common cups shall be prohibited.

D. Ice delivered to client areas in bulk shall be in nonporous, covered containers that shall be cleaned after each use.

E. Drinking fountains of a sanitary angle jet design shall be properly regulated and maintained. There shall be no possibility of the mouth or nose becoming submerged. If drinking fountains are not provided, single service cups shall be used.

**SECTION 1700 - FIRE PREVENTION**

**1701. Arrangements for Fire Department Response and Protection (I)**

A. A facility shall develop, in coordination with its supporting fire department and/or disaster preparedness agency, a suitable written plan for actions to be taken in the event of fire and other emergencies. All employees shall be made familiar with these plans and instructed as to required action.

B. A facility shall meet all of the requirements prescribed by the South Carolina State Fire Marshal.

C. Where a facility is located outside of a service area or range of a public fire department, a facility shall make arrangements to have the nearest fire department respond in case of fire. A facility shall keep a copy of the agreement on file in the facility.

**1702. Fire Response Training (I)**

A. Each employee of the facility shall receive within twenty-four (24) hours of initial client contact and annually thereafter instructions covering:

1. The fire plan;
2. The fire evacuation plan, including routes and procedures;
3. How to report a fire;
4. How to use the fire alarm system;
5. Location and use of fire-fighting equipment;
6. Methods of containing a fire; and
7. Specific responsibilities of the individual.

B. A facility shall maintain records of training including the date, names of participating individuals, and a description of the training.

**1703. Fire Drills (I)**

A. A facility shall conduct a fire drill for each shift at least once every three (3) months.

B. A facility shall maintain records of drills including the date, time, shift, and names of individuals participating, description of the drill, and evaluation.

C. Fire drills shall be designed and conducted to:

1. Ensure that all personnel are capable of performing assigned tasks or duties;
2. Ensure that all personnel know the location, use, and operation of fire-fighting equipment;

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3. Ensure that all personnel are thoroughly familiar with the fire plan; and
4. Evaluate the effectiveness of plans and personnel.

### **SECTION 1800 - DESIGN AND CONSTRUCTION**

#### **1801. General (II)**

A facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each client. Facility design shall be such that all clients have access to required services.

#### **1802. Codes and Standards (II)**

A. A facility shall be approved for code compliance by local officials (zoning and building) prior to licensure by the Department.

B. Facility design and construction shall comply with applicable provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

C. Unless specifically required otherwise by the Department, all facilities shall comply with the codes and regulations applicable at the time its license was issued.

D. Any facility that closes, has its license revoked, or surrenders its license and applies for re-licensure at the same site shall be considered a new building and shall meet the current codes, regulations, and requirements for the building and its essential equipment and systems in effect at the time of application for re-licensing.

#### **1803. Submission of Plans (II)**

A. Plans and specifications shall be prepared by an architect and/or engineer registered in South Carolina. Unless directed otherwise by the Department, a facility shall submit plans at the schematic, design development, and final stages. All plans shall be drawn to scale. Any construction changes from the approved documents shall be approved by the Department. Construction work shall not commence until a plan approval has been received from the Department. During construction the Owner shall employ a registered architect and/or engineer for observation. Upon approval of the Department, construction administration may be performed by an entity other than the architect. The Department shall conduct periodic inspections throughout each project.

B. Plans and specifications shall be submitted to the Department for new construction and for a project that has an effect on:

1. The function of a space;
2. The accessibility to or of an area;
3. The structural integrity of the facility;
4. The active and/or passive fire safety systems (including kitchen equipment such as exhaust hoods or equipment required to be under an exhaust hood);
5. Doors;
6. Walls;
7. Ceiling system assemblies;

8. Exit corridors;
9. Life safety systems; or
10. Increases the occupant load or licensed capacity of the facility.

C. All subsequent addenda, change orders, field orders, and documents altering the Department review must be submitted. Any substantial deviation from the accepted documents shall require written notification, review and re-approval from the Department.

D. Cosmetic changes utilizing paint, wall covering, floor covering, or other, that are required to have a flame-spread rating or other safety criteria shall be documented with copies of the documentation and certifications kept on file at the facility and made available to the Department.

E. Any construction work which violates codes or standards shall be required to be brought into compliance.

#### **1804. Construction Permits**

All projects shall obtain all required permits from the locality having jurisdiction. Construction without proper permitting shall not be inspected by Department.

#### **1805. Client Rooms**

A. Facilities with sixteen (16) or more beds shall provide cubicle curtains with built-in curtain tracks in all multiple bed rooms which will shield each client completely. Curtains shall be flameproof.

B. Beds must be placed at least three (3) feet apart. (II)

C. At least one (1) private room shall be provided in each control station area for purposes of medical isolation, incompatibility, personality conflicts, or other.

#### **1806. Control Station**

A control station shall serve not more than forty-four (44) beds, unless additional services and facilities are provided. In order to permit a control station to serve more than forty-four (44) beds, a facility shall furnish justification showing how the additional beds served will not adversely affect the healthcare provided to each client.

#### **1807. Utility Rooms**

A. Soiled Utility Room. Facilities with sixteen (16) or more beds shall provide at least one (1) soiled utility room per control station which contains a clinical sink, work counter, handwash sink, waste receptacle and soiled linen receptacle.

B. Clean Utility Room. Facilities with sixteen (16) or more beds shall provide at least one (1) clean utility room per control station which contains a counter with a handwash sink and space for the storage and assembly of supplies for nursing procedures.

C. A soiled linen holding, and clean linen holding room shall be provided in facilities with sixteen (16) or more beds.



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### **SECTION 1900 - FIRE PROTECTION EQUIPMENT AND SYSTEMS (I)**

#### **1901. Fire Alarms and Sprinklers**

A. A facility shall include a partial, manual, automatic, and supervised fire alarm system. A facility shall arrange the fire alarm system to transmit an alarm automatically to a third party by an approved method. A facility shall provide a fire alarm system that notifies all occupiable areas and floors of the building by audible and visual alarm. A facility shall provide a fire alarm system that shuts down central recirculating systems and outside air units that serve the area(s) of alarm origination at a minimum.

B. A facility shall include all fire, smoke, heat, sprinkler flow, or manual fire alarming devices or systems that connect to the main fire alarm system and triggers the system when activated.

C. A facility shall include a sprinkler system.

D. A facility shall include a fire alarm pull station in or near each control station.

#### **1902. Emergency Generator Service**

A. Facilities shall provide certification that construction and installation of the emergency generator service, when provided, complies with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

B. An emergency generator shall deliver emergency electrical service during interruption of the normal electrical service to the distribution system as follows:

1. Exit lights and exit directional signs;
2. Exit access corridor lighting;
3. Lighting of means of egress and staff work areas;
4. Fire detection and alarm systems;
5. Client care areas;
6. Signal system;
7. Equipment necessary for maintaining telephone service and all life safety systems;
8. Elevator service that will reach every client floor where rooms are located other than the ground floor;
9. Fire pump;
10. Equipment for heating client rooms;
11. Public restrooms;
12. Essential mechanical equipment rooms;
13. Battery-operated lighting and a receptacle in the vicinity of the emergency generator;
14. Alarm systems, water flow alarm devices, and alarms required for medical gas systems; and

15. Client records when solely electronically based.

**SECTION 2000 - PREVENTATIVE MAINTENANCE**

A facility shall keep the structure, component parts, amenities and equipment in good repair and operating condition. Repairs and the replacement of component parts, including repairs to equipment requiring routine testing, shall be documented and retained by the facility. A facility shall comply with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

**SECTION 2100 - EQUIPMENT AND SYSTEMS**

**2101. Gases (I)**

A. Gases, flammable and nonflammable, shall be handled and stored in compliance with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

B. Safety precautions shall be taken against fire and other hazards when oxygen is dispensed, administered, or stored. "No Smoking" signs shall be posted conspicuously, and cylinders shall be properly secured in place in an upright position. In "Smoke-Free" facilities, "No Smoking" signs shall not be required in, and in the vicinity of, client rooms where oxygen is being administered provided all four (4) of the following conditions are met:

1. Smoking is prohibited;
2. The facility's nonsmoking policy is strictly enforced;
3. "Smoke-Free" signs are strategically placed at all major entrances; and

4. The facility has "No Smoking" signs in, and in the vicinity of, client rooms where oxygen is stored as well as all other required areas.

**2102. Furnishings and Equipment (I)**

A. A facility shall maintain the physical plant free of fire hazards or impediments to fire prevention.

B. A facility shall not permit portable electric or unvented fuel heaters.

C. Fireplaces and fossil-fuel stoves, or wood-burning, shall have partitions or screens or other means to prevent burns. Fireplaces shall be vented to the outside. A facility shall not use unvented gas logs. Gas fireplaces shall have a remote gas shutoff within the room and not inside the fireplace.

D. A facility shall require all wastebaskets, window dressings, portable partitions, cubicle curtains, mattresses, and pillows to be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant.

**SECTION 2200 - WATER SUPPLY, HYGIENE, AND TEMPERATURE CONTROL (II)**

A. Plumbing fixtures that require hot water and which are accessible to clients shall be supplied with water that is thermostatically controlled to a temperature of at least one hundred (100) degrees Fahrenheit and not to exceed one hundred twenty (120) degrees Fahrenheit at the fixture.

B. The water heater or combination of heaters shall be sized to provide at least six (6) gallons per hour per licensed bed at the temperature range indicated in Section 2201.A.

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C. Hot water supplied to the kitchen equipment and utensil washing sink shall be supplied as required by R.61-25.

D. Hot water provided for washing linen shall not be less than one hundred sixty (160) degrees Fahrenheit. Should chlorine additives or other chemicals which contribute to the margin of safety in disinfecting linen be a part of the washing cycle, the minimum hot water temperature shall not be less than one hundred ten (110) degrees Fahrenheit, provided hot air drying is used.

### **SECTION 2300 - ELECTRICAL**

#### **2301. General (I)**

A facility shall maintain all electrical installations and equipment in a safe, operable condition in accordance with the applicable codes and shall be inspected at least annually by a licensed electrician, registered engineer, or certified electrical inspector.

#### **2302. Panelboards (II)**

A facility shall label the panelboard directory to conform to the room numbers and/or designations.

#### **2303. Lighting**

A. A facility shall provide adequate lighting in spaces occupied by persons, machinery, and equipment within buildings, approaches to buildings, and parking lots. (II)

B. A facility shall provide adequate artificial light and sufficient illumination for reading, observation, and activities. A facility shall provide general lighting in all parts of every client room and at least one (1) light fixture for night lighting in every client room. A facility shall provide a reading light for each client.

C. A facility shall provide switched lighting in all client sleeping rooms. Switches shall be located at the client sleeping room door. D. A facility shall provide lighting in hallways, stairs, and other means of egress at all times.

#### **2304. Receptacles (II)**

A. A facility shall provide duplex grounding type receptacles in each client room with one (1) duplex receptacle at the head of each bed in compliance with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

B. Each client bed location shall have a minimum of two (2) duplex receptacles.

C. Each client bed location shall be supplied by at least two (2) branch circuits.

D. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of the ends of corridors.

#### **2305. Ground Fault Protection (I)**

A. A facility shall have ground fault circuit-interrupter protection for all outside receptacles and bathrooms.

B. A facility shall have ground fault circuit-interrupter protection for any receptacle within six (6) feet of a sink or any other wet location. If the sink is an integral part of the metal splashboard grounded by the sink, the entire metal area is considered part of the wet location.

**2306. Exit Signs (I)**

A. A facility shall identify all required exits and ways to access thereto with electronically-illuminated exit signs bearing the word "Exit" in red letters.

B. A facility shall mark changes in egress direction with exit signs with directional arrows.

C. A facility shall maintain exit signs in corridors that indicate two (2) directions of exit, where appropriate.

**SECTION 2400 - HEATING, VENTILATION, AND AIR CONDITIONING (HVAC) (II)**

A. A facility shall not install a HVAC supply or return grille within three (3) feet of a smoke detector. (I)

B. A facility shall not install HVAC grilles in floors.

C. Return air ducts shall be filtered and maintained to prevent the entrance of dust, dirt, and other contaminating materials. The system shall not discharge in a manner that would be an irritant to clients, staff, or visitors.

D. A facility shall have each shower, bath, and restroom with either operable windows or have approved mechanical ventilation.

**SECTION 2500 - GENERAL CONSTRUCTION REQUIREMENTS**

**2501. Common Areas (II)**

A. A facility shall provide a minimum of thirty (30) square feet per bed of living, recreational, and dining area combined, excluding bedrooms, halls, kitchens, bathrooms, and rooms not available to clients.

B. A facility shall provide all required care, treatment, and services in a manner that does not require clients to ambulate from one site to another outside the building(s), nor impedes clients from ambulating from one site to another due to the presence of physical barriers.

C. A facility shall ensure methods of visual and auditory privacy between client and staff, volunteers, or visitors.

D. A facility shall provide physical space for private client, family, and/or responsible party visiting.

E. A facility shall provide accommodations for family privacy after a client's death.

**2502. Client Rooms**

A. With the exception of furniture (unless otherwise allowed by facility policy), a client shall have the choice of bringing familiar items from home as part of the furnishing to his or her room, such as, wall pictures, paintings, vases, or other. Each client room shall be equipped with the following as a minimum for each client:

1. A comfortable single bed having a mattress with moisture-proof cover, sheets, blankets, bedspread, pillow, and pillowcases. Roll-away type beds, cots, bunkbeds, and folding beds shall not be used. It is permissible to utilize a recliner in lieu of a bed or remove a client bed and place the mattress on a platform or pallet provided the physician or other authorized healthcare provider has approved it and the decision is documented in the plan of care. (II)

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**EXCEPTION:** In the case of a married couple sharing the same room, a double bed is permitted if requested. For all other requirements, this shall be considered a bedroom with two (2) licensed beds. A roll-away type bed or cot may be temporarily used for family or responsible party staying overnight with the client.

2. A facility shall provide a closet or wardrobe, a bureau consisting of at least three (3) drawers, and a compartmentalized bedside table or nightstand to adequately accommodate each client's personal clothing, belongings, and toilet articles. Built-in storage is permitted.

3. A comfortable chair shall be available for each client occupying the room. In facilities licensed prior to the promulgation of this regulation, if the available square footage of the client room will not accommodate a chair for each client or if the provision of multiple chairs impedes client ability to freely and safely move about within their room, the facility shall provide at least one (1) chair and have additional chairs available for temporary use in the client's room by visitors.

B. If hospital-type beds are used, there shall be at least two (2) lockable casters on each bed, located either diagonally or on the same side of the bed.

C. Beds shall not be placed in corridors, solaria, or other locations not designated as client room areas. (I)

D. No client room shall contain more than two (2) licensed beds. (II)

E. No client room shall be located in a basement.

F. Access to a client room shall not be by way of another client room, toilet, bathroom, or kitchen.

G. A facility shall provide equipment such as bedpans, urinals, and hot water bottles, necessary to meet client needs. Permanent positioning of a portable commode at bedside shall only be permitted if the room is private, the commode is maintained in a sanitary condition, and the room is of sufficient size to accommodate the commode. (II)

H. Side rails may be utilized when required for safety and when ordered by a physician or other authorized healthcare provider. When there are special concerns, such as, clients with Alzheimer's disease and/or related dementia, side rail usage shall be monitored by staff members as per facility policies and procedures. (I)

I. In semi-private rooms, when personal care is being provided, arrangements shall be made to ensure privacy in accordance with Section 1805.A.

J. A facility shall provide at least one (1) private room for assistance in addressing client compatibility issues, client preferences, and accommodations for clients with communicable disease.

K. Infants and small children shall not be assigned to a room with an adult client unless requested by clients and families.

### 2503. Client Room Floor Area

A. Each client room shall have an outside window. This window shall not open onto a common area screened porch. (I)

B. The client room floor area is a usable or net area and does not include wardrobes (built-in or freestanding), closets, or the entry alcove to the room. The following is the minimum floor space allowed: (II)

1. Rooms for only one (1) client: at least eighty (80) square feet for the licensed bed (there shall be compliance with the minimum square footage requirements of Section 2503.B.2 in instances when family members or responsible party routinely utilize a separate bed for overnight stays with the client);

2. Rooms for more than one (1) client: at least sixty (60) square feet per licensed bed.

C. There shall be at least three (3) feet between beds. (II)

**2504. Visitor Accommodations**

A. If provided, visitor designated or guest rooms shall not be utilized by clients, prospective clients, or staff members of the facility.

B. No supervisory care shall be given to visitors of the facility, for example, first aid response by staff, tray service, or other supervisory care.

C. Visitors shall be made aware of those provisions and accommodations available so that they may serve themselves, such as, towels, sheets, soap, or other provisions.

D. Any conduct of the visitors which may have an adverse effect on the clients or facility must be promptly and prudently handled, such as client or staff abuse.

E. Those visiting, as well as the clients with whom they are visiting, shall be made fully aware of the conditions under which their stay is acceptable.

F. A facility shall provide adequate space of privacy for the family and significant others at the time of a client's death.

**2505. Baths and Restrooms (II)**

A. A facility shall have an appropriate number of restrooms to accommodate clients, staff, and visitors. A facility shall have one (1) toilet for each four (4) licensed beds or a fraction thereof and one (1) bathtub or shower for each twelve (12) licensed beds or a fraction thereof.

B. A facility shall have accessible restrooms during all operating hours.

C. A facility shall equip all restrooms with at least one (1) toilet fixture, toilet paper installed in a holder, a lavatory supplied with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a covered waste receptacle. A facility shall provide soap, bath towels, and washcloths to each client as needed. A facility shall not store bath linens assigned to specific clients in centrally located restrooms.

D. A facility shall have approved grab bars securely fastened on at least one (1) side of all toilet fixtures used by clients.

E. A facility shall provide privacy at toilet fixtures and urinals.

F. A facility shall provide restrooms for persons with disabilities in compliance with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

G. A facility shall completely cover all restroom floors with an approved, nonabsorbent covering. A facility shall have restroom walls with nonabsorbent, washable surfaces to the highest level of splash.

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### **2506. Control Stations**

A. A facility shall provide control stations for nursing and/or other direct care staff. A facility shall design and construct (or set up) control stations in a manner conducive to the type of care provided by the facility or that specific area of the facility and the types of clients served.

B. At or near each control station, there shall be a telephone, an area for maintaining client records and making entries, and a toilet and handwashing sink.

C. At or near each control station, a facility shall make provisions for the following:

1. Secured storage of medications, which may be accomplished by the use of a separately secured medication cart, container, cabinet, or room, provided:

a. The method or methods used are of sufficient size to allow for neat, clean, and orderly storage of medications;

b. Separations are provided for the storage of each client's medications; and

c. Separations are provided for oral and topical medications.

2. Work space or area for the preparation of medications, which may be a counter, table top, or a separate room, to include being a part of a separate medication room.

D. A facility shall not allow a control station to serve more than forty-four (44) beds.

E. A facility shall not have any client room located more than 150 feet from the control station serving that client room.

F. A facility shall have utility areas or rooms for separate storage of clean and soiled supplies and equipment at or near each control station. A facility shall require each utility area to contain a handwashing sink, work counter, waste receptacle, and space for the storage of supplies.

### **2507. Doors (II)**

A. A facility shall have opaque doors on restrooms for the purpose of privacy.

B. A facility shall require all glass doors, including sliding or patio type doors, to have a contrasting or other indicator that causes the glass to be observable, for example, a decal located at eye level.

C. Doors that have locks shall be unlockable and openable with one action.

D. A facility shall have provisions for emergency entry if client room doors are lockable.

E. Any locked room door in the facility shall have the ability to unlock and open from inside the room.

### **2508. Elevators (II)**

A facility shall have elevators inspected and tested upon installation, prior to first use, and annually thereafter by a certified elevator inspector.

**2509. Handrails and Guardrails (II)**

A. A facility shall provide handrails on at least one (1) side of each corridor.

B. A facility shall provide guardrails forty-two (42) inches high on all porches, walkways, and recreational areas (such as decks and the like) elevated thirty (30) inches or more above grade in compliance with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

**2510. Janitor's Closet (II)**

A facility shall have at least one (1) lockable janitor's closet per forty-four (44) licensed beds. Facilities having multiple housing units shall have at least one (1) lockable janitor's closet per each housing unit. A facility shall equip each closet with a mop sink or receptor and space for the storage of supplies and equipment.

**2511. Storage Areas**

A. A facility shall provide adequate general storage areas for client, staff, and volunteer belongings and equipment. A facility shall provide at least ten (10) square feet of general storage per bed throughout the facility.

B. A facility shall provide separate storage for beds, wheel chairs, and other equipment.

C. A facility shall not store supplies and equipment directly on the floor. A facility shall not store supplies and equipment susceptible to water damage or contamination under sinks or other areas with a propensity for water leakage. (II)

**2512. Telephone Service**

A. A facility shall make at least one (1) telephone available and easily accessible on each floor of the facility for use by clients and/or visitors for their private, discretionary use. Telephones shall be portable to accommodate bedridden or ambulatory-impaired clients. Telephones capable of only local calls are acceptable for this purpose, provided other arrangements exist to provide client and visitor discretionary access to a telephone capable of long-distance service.

B. A facility shall provide at least one (1) telephone on each floor for staff members and volunteers to conduct routine business of the facility and to summon assistance in the event of an emergency.

**2513. Location**

A. Transportation. A facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.

B. Parking. A facility shall have a parking area to reasonably satisfy the needs of clients, staff members, volunteers, and visitors.

C. Access to firefighting equipment. A facility shall maintain adequate access to and around the building(s) for firefighting equipment. (I)

**2514. Outdoor Area**

A. A facility shall enclose all unsafe, unprotected physically hazardous outdoor areas with a fence or natural barrier the size, shape, and density to effectively impede travel to the hazardous area. The outdoor hazardous areas of a facility include, but are not limited to, steep grades, cliffs, open pits, high voltage electrical equipment,



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high speed or heavily traveled roads, roads exceeding two (2) lanes excluding turn lanes, ponds, and swimming pools. (I)

B. A facility shall have a gate in any fence required as part of a fire exit from the building and the gate in the fence shall unlock in case of emergency in compliance with provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal. (I)

C. A facility shall protect mechanical or equipment rooms open to the outside of the facility from unauthorized individuals. (II)

### SECTION 2600 - SEVERABILITY

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations and they shall remain in effect as if such invalid portions were not originally a part of these regulations.

### SECTION 2700 - GENERAL

Conditions which have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

#### **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).

**DESCRIPTION OF REGULATION:** R.61-13, *Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions.*

**Purpose:** The purpose of these amendments to R.61-13 is to clarify standards pertaining to Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions. These amendments provide updates to the definitions, licensure requirements, accident and/or incident reporting requirements, client and medical record maintenance, client care, services and treatment, emergency procedures and disaster preparedness, infection control and tuberculosis screening, medication administration, design and construction, and fire and life safety. In addition, provisions have been amended for general clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

**Legal Authority:** 1976 Code Section 44-7-260.

**Plan for Implementation:** Upon approval by the General Assembly and publication in the *State Register* as a final regulation, a copy of R.61-13, which includes these latest amendments, will be available electronically on the Department's Laws and Regulations website under the Health Regulations 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 REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Department promulgated R.61-13 in 1992. The regulation was updated June 25, 2010, to correct or note typographical errors. In 2011, pursuant to 2011 Act No. 47, Section 14(B), the Code Commissioner amended R.61-13 by updating references and nomenclature to current practices. Pursuant to S.C. Code Section 1-23-120(J), the Department is required to perform a formal review of its regulations every five (5) years and update them if necessary.

Regulation 61-13 has not been substantively updated since its promulgation in 1992. Therefore, many of the procedures, practices, and terms are outdated and/or no longer applicable. The amendments further clarify and improve accident and/or incident reporting requirements, client care, services and treatment, client and medical record maintenance, infection control and tuberculosis screening, emergency procedures and disaster preparedness, and medication administration. Amendments to design and construction, and fire and life safety are needed to comply with current codes and procedures.

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. Amendments to R.61-13 improve clients' rights and assurances, client care, services and treatment, accident and/or incident reporting requirements, update emergency procedures and disaster preparedness planning, and update design, construction, fire, and life safety measures to comply with current procedures and codes.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The amendments to R.61-13 seek to support the Department's goals relating to the protection of public health 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. 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:**

Pursuant to S.C. Code Section 44-7-260, the Department is amending R.61-13, *Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions*. The amendments update R.61-13 to align with current industry practices, procedures, and nomenclature. The amendments address the issues regarding licensure requirements complying with statutory authority, emergency procedures and disaster preparedness planning, accident and/or incident reporting ambiguities, lessen the burden regarding design and construction requirements, and update the design, construction, fire, and life safety to current code.

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Document No. 4568

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: 1976 Code Sections 44-34-10 et seq.

61-111. Standards for Licensing Tattoo Facilities

#### Synopsis:

Regulation 61-111 has not been substantively updated since its promulgation in 2006. The amendments to Regulation 61-111 are necessary to update definitions, references, and codification. In addition, the amendments include updates to provisions relating to reporting requirements, licensing requirements, infection control and sterilization, design and construction, and fire and life safety. The amendments also incorporate provider-wide exceptions applicable to tattoo facilities. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

A Notice of Drafting was published in the *State Register* on February 27, 2015.

#### Section-by-Section Discussion of Amendments

Statutory authority for this regulation was added under the title of the regulation and before the table of contents.

#### TABLE OF CONTENTS

The Table of Contents was added.

#### **61-111.100. Definitions (formerly 61-111.101)**

The definitions of 61-111.100.B Adult, and 61-111.100.E Authorized Healthcare Provider have been added. The definitions of 61-111.100.A (formerly 61-111.101.A) Administrator, 61-111.100.C (formerly 61-111.101.B) Aftercare Suggestions, 61-111.100.I (formerly 61-111.101.G) Consultation, 61-111.100.K (formerly 61-111.101.I) Department, 61-111.100.L (formerly 61-111.101.J) Direct Supervision, 61-111.100.M (formerly 61-111.101.K) Disinfection, 61-111.100.N (formerly 61-111.101.L) Experienced Tattoo Artist, 61-111.100.Q (formerly 61-111.101.O) Injection Equipment, 61-111.100.R (formerly 61-111.101.P) Inspection, 61-111.100.S (formerly 61-111.101.Q) Investigation, 61-111.100.U (formerly 61-111.101.T) Licensee, 61-111.100.V (formerly 61-111.101.U) Micropigmentation or Application of Permanent Cosmetics, 61-111.100.W (formerly 61-111.101.V) Minor, 61-111.100.Y (formerly 61-111.101.Z) Picture Identification, 61-111.100.BB (formerly 61-111.101.CC) Repeat Violation, 61-111.100.CC (formerly 61-111.101.DD) Revocation of License, 61-111.100.FF (formerly 61-111.101.GG) Sharps, 61-111.100.GG (formerly 61-111.101.HH) Single-use, 61-111.100.II (formerly 61-111.101.JJ) Sterile, 61-111.100.JJ (formerly 61-111.101.KK) Sterile of Sterilization, 61-111.100.LL (formerly 61-111.101.MM) Tattoo Artist, 61-111.100.MM (formerly 61-111.101.NN) Tattoo Artist Trainee, 61-111.100.NN (formerly 61-111.101.OO) Tattoo or Tattooing, and 61-111.100.QQ (formerly 61-111.101.RR) Work Station have been amended. The definitions of 61-111.101.R Legally Authorized Healthcare Provider, 61-111.101.X New Facility, and 61-111.101.Y Parental Consent have been deleted. The remaining definitions were renumbered to adjust the codification.

#### **61-111.102. References**

Section 61-111.102 has been deleted.

#### **61-111.200. LICENSE REQUIREMENTS**

The section title was amended for regulatory consistency.

**61-111.201. Scope of Licensure**

The section title was amended for regulatory consistency. Section 61-111.201.A (formerly 61-111.201.A.1) was amended to correct codification. Section 61-111.201.C (formerly 61-111.201.A.3) was amended to correct a section reference.

**61-111.202. License Application (formerly 61-111.201.F)**

Section 61-111.202 was relocated from former Section 61-111.201.F. Section 61-111.202.A.3 (formerly 61-111.201.F.1.b) has been amended to require a certified copy of the local ordinance authorizing tattooing within its jurisdiction or a letter signed by the city or county manager or administrator with authority to represent the city or county stating that tattooing is authorized within its jurisdiction. The section was further amended to correct applicable section references and update the requirements for license applications.

**61-111.203. Compliance (formerly 61-111.201.B)**

Section 61-111.203 (formerly 61-111.201.B) was amended for regulatory consistency and to delineate the requirements of regulatory compliance.

**61-111.204. Issuance and Terms of License (formerly 61-111.201.E)**

Section 61-111.204 (formerly 61-111.201.E) has been amended to adjust the codification. Section 61-111.204.D (formerly 61-111.201.E.4) has been amended to allow for suspension or revocation of a license at any time. Section 61-111.204.F was relocated from former 61-111.201.F.3. Section 61-111.204.G was relocated from former 61-111.201.F.4. Section 61-111.204.H was relocated from former 61-111.201.J. Section 61-111.204.I was added to allow licensed facilities to continue utilizing the previously-licensed structure without building modification and shall comply with the remainder of the standards within the regulation.

**61-111.205. Licensing Fees (formerly 61-111.201.G)**

Section 61-111.205.A (formerly 61-111.201.G) was amended to allow licensing fees to be paid by credit card in addition to check or money order. Section 61-111.205.B (formerly 61-111.201.G.1) was amended to require facilities with more than eight (8) work stations to pay an additional fifty dollars (\$50.00) for each additional work station over eight (8). Section 61-111.205.C (formerly 61-111.201.G.2) was amended to correct a section reference.

**61-111.206. Late Fee (formerly 61-111.201.G.3)**

Section 61-111.206 was relocated from former Section 61-111.201.G.3 and amended for clarity.

**61-111.207. License Renewal (formerly 61-111.201.G.4)**

Section 61-111.207 (formerly 61-111.201.G.4) was amended for clarity and to delete unnecessary language.

**61-111.208. Change of License (formerly 61-111.201.H)**

Section 61-111.208.A.2 (formerly 61-111.201.H.2) was amended to require facilities to request a new or amended license if the facility changes the number of work stations in the facility. Section 61-111.208.B (formerly 61-111.201.H.4) was amended to require facilities to notify the Department by letter or application if there is a change in the facility name. Section 61-111.208.C was added to require facilities to notify the Department by letter or application if the facility changes locations from one geographic site to another.

**61-111.209. Exceptions to the Licensing Standards (formerly 61-111.202)**

The section title was amended for clarity.

**61-111.300. ENFORCEMENT OF REGULATIONS**

The section title was amended for regulatory consistency and the subsections were amended to update the codification.

**61-111.301. General**

Section 61-111.301 was amended to pertain to proposed or licensed facilities.

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### **61-111.302. Inspections and Investigations**

The section title was amended for regulatory consistency. Section 61-111.302.C was amended to clarify the requirements of photocopies of records for Department inspectors. Section 61-111.302.E was amended to allow the Department to charge a fee for licensing inspections.

### **61-111.303. Consultations**

This section has been deleted.

### **61-111.400. ENFORCEMENT ACTIONS**

Section 61-111.402.F was amended to clarify language relating to monetary penalties and to update the table of monetary penalty actions.

### **61-111.401. General**

Section 61-111.401 was amended for clarity and to include violations relating to the maintenance of a facility.

### **61-111.402. Violation Classifications**

Sections 61-111.402.A and 61-111.402.D were amended for clarity and grammar. Section 61-111.402.F was amended to delineate the monetary penalty actions for violations.

### **61-111.500. POLICIES AND PROCEDURES**

Section 61-111.500.A (formerly 61-111.501.A) was amended for clarity. Section 61-111.500.B (formerly 61-111.501.B) was amended for grammar and clarity. Section 61-111.500.C (formerly 61-111.501.C) was amended to require that blood donor information and aftercare suggestions be included in the informed consent process.

### **61-111.600. STAFF AND TRAINING**

The section title was amended to indicate the regulatory items therein.

### **61-111.601. General**

Section 61-111.601.A was amended to require facilities to have appropriate staff in numbers and training available at the facility to provide appropriate, safe tattooing procedures to clients and meet the demands of effective emergency on-site action that may arise. Section 61-111.601.B was amended to prohibit tattoo artists from being under the influence of any drugs, alcohol, or other substance that would impair his or her ability to perform tattooing. Section 61-111.601.C was relocated to Section 61-111.602. Section 61-111.601.D (formerly 61-111.601.E) was amended to require facilities to maintain accurate current information regarding staff members including health, work, and training background. Section 61-111.601.F was relocated to Section 61-111.603.B. The remaining sections were renumbered to adjust the codification.

### **61-111.602. Administrator (formerly 61-111.601.C)**

The requirements of the facility administrator have been relocated from former Section 61-111.601.C.

### **61-111.603. Inservice Training (formerly 61-111.602)**

Section 61-111.603.A (formerly 61-111.602.A) was amended to require certain training prior to client contact and at a frequency as determined by the facility but at least annually. Section 61-111.603.A.1 (formerly 61-111.602.A.1) was amended to require training at least annually in OSHA standards in bloodborne pathogens. Section 61-111.603.A.3 (formerly 61-111.602.A.3) was amended to expand accepted first aid training. Section 61-111.603.A.4 (formerly 61-111.602.A.4) was amended for clarity. Section 61-111.603.B (formerly 61-111.602.B) was amended to require trainees to have a minimum of one thousand (1000) hours of tattoo procedures training within the last thirty-six (36) months under direct supervision of an experienced tattoo artist prior to independently performing tattooing procedures.

### **61-111.604. Health Status**

Section 61-111.604 was added to prohibit persons with or a carrier of a serious communicable disease, or persons having boils or open or infected skin lesions from having client contact.

**61-111.700. REPORTING**

This section was amended to adjust the codification.

**61-111.701. Accidents and/or Incidents**

The subsection title was amended for regulatory consistency and clarity. Section 61-111.701.A was amended to require facilities to submit reports of accidents and/or incidents to the Department within five (5) calendar days. Section 61-111.701.A was further amended to delineate the accidents and/or incidents required to be reported. Section 61-111.701.B was amended to delineate the requirements of the report submitted to the Department.

**61-111.702. Fire and Disasters**

The section title was amended for clarity and regulatory consistency.

**61-111.703. Administrator Change**

Section 61-111.703 was amended to require facilities to notify the Department in writing within ten (10) days of any change in administrator.

**61-111.704. Facility Closure**

Section 61-111.704.A was amended to require notification to the Department within ten (10) days prior to the permanent closure of a facility. Section 61-111.704.B was amended to require facilities to notify the Department within fifteen (15) days prior to temporary closure of a facility, and within twenty-four (24) hours of temporary closure due to emergency.

**61-111.801. Content**

Section 61-111.801.A was amended to require that the client record contain sufficient information to identify the client and verify the procedure(s) performed. Section 61-111.801.B was amended to include documentation. Section 61-111.801.B.1 was amended for clarity. Section 61-111.801.B.2 was amended to correct a section reference and to require the signed informed consent in the client record. Section 61-111.801.B.5 was deleted to remove references to parental consent. Section 61-111.801.B.5 (formerly 61-111.801.B.6) was amended to correct a section reference. Section 61-111.801.B.6 was added to require emergency contact information for clients to be included in the client's record. Section 61-111.801.C was amended for clarity. Section 61-111.801.D was amended to remove specific requirements of the release or aftercare note.

**61-111.802. Record Maintenance**

Section 61-111.802.A was amended to require that facilities adequately produce, protect, and store client records. Section 61-111.802.B was amended to allow only authorized individuals access to records. Section 61-111.802.C was amended for clarity and grammar.

**61-111.900. CLIENT PROCEDURES AND SERVICES**

The section title was amended for regulatory consistency. Section 61-111.900.B (formerly 61-111.901.B) was amended to require tattoo artists to verify by means of picture identification that a client is at least eighteen (18) years of age to comply with statutory authority. Sections 61-111.900.B.1 and 61-111.900.B.2 (formerly 61-111.901.B.1 and 61-111.901.B.2) were deleted as these requirements are unnecessary. Section 61-111.901.D has been deleted. Sections 61-111.900.G (formerly 61-111.901.H), 61-111.900.H (formerly 61-111.901.I), and 61-111.900.I (formerly 61-111.901.J) were amended for grammar and clarity. The remaining sections were renumbered to adjust the codification.

**61-111.1001. Informed Consent**

This section was amended to adjust the codification. Section 61-111.1001.A (formerly 61-111.1001) was amended for clarity. Section 61-111.1001.B was added to require the informed consent process to include information related to disqualification that tattooing may confer upon a prospective blood donor.

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### **61-111.1002. Grievances and Complaints**

The section title was amended for regulatory consistency. Section 61-111.1002 was amended to require facilities to inform clients of the grievance procedure and include the address and phone number of the Department in the grievance procedure.

### **61-111.1003. Procedures and Charges**

Section 61-111.1003 was amended to allow facilities charging an hourly rate to have the hourly rate in writing as opposed to the total fee.

### **61-111.1100. MAINTENANCE**

Section 61-111.1100.A (formerly 61-111.1101) has been amended to require facilities to keep the structure, component parts, amenities, and equipment in good repair and operation condition to perform the functions for which they were designed. Section 61-111.1100.B was added to require the physical plant to be maintained free of fire hazards or impediments to fire prevention.

### **61-111.1201. Staff Practices**

Section 61-111.1201 was amended to update and correct references to applicable regulatory documents and standards.

### **61-111.1202. Hepatitis B Vaccination**

Section 61-111.1202.A (formerly 61-111.1202) was amended to require all technicians to have the hepatitis B vaccination series unless the vaccine is contraindicated or the individual is offered the series and declines, and to require that the decision be documented. Section 61-111.1202.B was added to require those receiving the hepatitis B vaccination series to have the initial dose of the three (3) dose series within thirty (30) days of employment.

### **61-111.1203. Infection Control**

Section 61-111.1203.A.1 was amended to require artists to wash his or her hands for a minimum of twenty (20) seconds with water and a liquid germicidal solution used in accordance with the manufacturer's directions. Section 61-111.1203.B was amended for grammar and clarity. Section 61-111.1203.F was amended for clarity and to require that lap cloths or lap towels be single-use only. Section 61-111.1203.G was amended to allow food and/or drink in the procedure room(s) for clients with conditions which may require food and/or drink. Section 61-111.1203.H was amended for clarity.

### **61-111.1204. Sterilization of Equipment**

Section 61-111.1204.A was amended for grammar and clarity. Section 61-111.1204.B was added to allow facilities utilizing single-use or disposable equipment and/or instruments to be exempt from re-sterilizing by autoclave those single-use and/or disposable items provided they are utilized and disposed of in accordance with the manufacturer's directions and not reused in any manner on another client. Section 61-111.1204.C (formerly 61-111.1204.B) was amended for grammar and clarity. The remaining items were amended to adjust the codification.

### **61-111.1205. Housekeeping**

Section 61-111.1205.A was amended for clarity. Section 61-111.1205.B was relocated. Section 61-111.1205.B (formerly 61-111.1205.D) has been amended to clarify the requirements of exterior housekeeping. Section 61-111.1205.C clarifies the requirements for discharge and disposal of dyes, inks, and pigments.

### **61-111.1206. Refuse Disposal**

Section 61-111.1206 was relocated from former Section 61-111.1205.B. Section 61-111.1206.A requires facilities to deposit all garbage and refuse in suitable watertight containers and dispose of rubbish and garbage in accordance with local requirements. Section 61-111.1206.B requires facilities to cover and store refuse containers outside on an approved platform and secured and thoroughly cleaned as necessary in a manner to prevent the creation of a nuisance.

**61-111.1207. Infectious Waste (formerly 61-111.1206)**

Section 61-111.1207 (formerly 61-111.1206) was amended to conform to codification and drafting standards.

**61-111.1301. Emergency Call Numbers**

Section 61-111.1301 was amended to require facilities to post emergency call data in a conspicuous place and to require at least telephone numbers of fire and police departments, ambulance service, and the poison control center, as well as names and contact information of staff members to be notified in case of emergency.

**61-111.1302. Medical Emergencies**

Section 61-111.1302 was amended for grammar.

**61-111.1400. FIRE PREVENTION AND PROTECTION**

This section title was amended for regulatory consistency.

**61-111.1401. Arrangements for Fire Department Response**

Section 61-111.1401 was amended for clarity.

**61-111.1402. Inspections**

Section 61-111.1402 was amended to require facilities to maintain and test fire protection systems in accordance with the applicable provisions of the codes officially adopted by the South Carolina State Fire Marshal.

**61-111.1403. Evacuation Plan**

Section 61-111.1403 was deleted and the requirements have been incorporated into Section 61-111.1403.B.

**61-111.1403. Fire Response Training (formerly 61-111.1404)**

Section 61-111.1403.A (formerly 61-111.1404) has been amended to require facilities to provide technicians and staff members with fire response training within forty-eight (48) hours of his or her first day of employment in the facility. Section 61-111.1403.A (formerly 61-111.1404) has been further amended to require new facilities seeking an initial permit to provide the Department with evidence of fire response training for each technician and staff member prior to the initial permitting inspection. Section 61-111.1403.A.1 (formerly 61-111.1404.A) was amended for clarity. Section 61-111.1403.A.6 (formerly 61-111.1404.F) was amended to include tasks with specific responsibilities. Section 61-111.1403.A.7 was added to require the fire evacuation plan and routes and procedures to be included in fire response training. Section 61-111.1403.B was added to require the evacuation plan to be posted in conspicuous public areas throughout the facility.

**61-111.1501. General**

Section 61-111.1501 was amended for clarity.

**61-111.1502. Adopted Codes and Standards**

Section 61-111.1502 was amended to require facility design and construction to comply with applicable provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

**61-111.1601. General**

Section 61-111.1601.A was amended to require that the disinfection and sterilization room be separated from the procedure room by door, divider, or wall. Section 61-111.1601.A was further amended to prohibit facilities from storing or keeping supplies or equipment not utilized for disinfection or sterilization in the room used exclusively for disinfection or sterilization. Section 61-111.1601.B was added to require all rooms to have sufficient ventilation. Section 61-111.1601.C was added to require adequate potable water for the needs of the facility and accessible to clients. Section 61-111.1601.D was added to require adequate artificial lighting in the procedure rooms and disinfection or sterilization rooms. Section 61-111.1601.E was added to require emergency electrical service for procedure room lighting, corridor egress, and exit sign lighting.



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### **61-111.1602. Work Stations**

Section 61-111.1602.A was added to require work stations to be not less than sixty-four (64) square feet of floor space, exclusive of fixed cabinets or shelves. Section 61-111.1602.A was further amended to require that multiple work stations be separated by dividers, curtains, walls, or partitions measuring at least four (4) feet in height. Sections 61-111.1602.A.1, 61-111.1602.A.2, and 61-111.1602.A.3 were amended for clarity. Section 61-111.1602.C was added to require that work station be separated from client waiting areas by door, divider, curtain, wall, or partition.

### **61-111.1603. Supplies and Medications**

Section 61-111.1603.A.5 (formerly 61-111.1601.C.5) was amended for grammar. Section 61-111.1603.A.7 (formerly 61-111.1601.C.7) has been removed as these items are no longer utilized. Section 61-111.1603.B (formerly 61-111.1601.D) was amended to delineate the requirements for storing and disposing of medications. The remaining items of Section 61-111.1603 have been relocated to other sections of the regulation.

### **61-111.1604. Restrooms (formerly 61-111.1602)**

Section 61-111.1604.C (formerly 61-111.1602.C) was amended to delete requirements of touchless controls on sinks. The remaining sections were amended for clarity.

### **61-111.1605. Location (formerly 61-111.1603)**

Section 61-111.1605 (formerly 61-111.1603) was amended to adjust the codification.

### **61-111.1701. Firefighting Equipment**

Section 61-111.1701 was amended to include the applicable section reference.

### **61-111.1702. Flammable Liquids**

Section 61-111.1702 was amended to include the applicable section reference.

### **61-111.1703. Furnishing and Equipment**

Section 61-111.1703.B was amended to require that no portable electric or unvented fuel heaters shall be permitted at the facility. Section 61-111.1703.C was amended to delete inapplicable or outdated references and to allow window blinds without flame treatments or documentation thereof.

## **61-111.1800. MOBILE UNITS AND TEMPORARY LOCATIONS**

Section 61-111.1800 (formerly 61-111.1801) was amended to include the applicable section reference.

## **61-111.1900. SEVERABILITY**

Section 61-111.1901 subsection title was deleted for clarity and codification.

## **61-111.2000. GENERAL**

Section 61-111.2001 subsection title was deleted for clarity and codification.

**Instructions:** Replace Regulation 61-111, *Standards for Licensing Tattoo Facilities*, in its entirety.

### **Text:**

### **61-111. Standards for Licensing Tattoo Facilities.**

Statutory Authority: 1976 Code Sections 44-34-10, et seq.

## **SECTION 100 - DEFINITIONS**

## **SECTION 200 - LICENSE REQUIREMENTS**

### **201. Scope of Licensure**

- 202. License Application
- 203. Compliance
- 204. Issuance and Terms of License
- 205. Licensing Fees
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- 207. License Renewal
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**SECTION 300 - ENFORCEMENT OF REGULATIONS**

- 301. General
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**SECTION 400 - ENFORCEMENT ACTIONS**

- 401. General
- 402. Violation Classifications

**SECTION 500 - POLICIES AND PROCEDURES**

**SECTION 600 - STAFF AND TRAINING**

- 601. General
- 602. Administrator
- 603. Inservice Training
- 604. Health Status

**SECTION 700 - REPORTING**

- 701. Accidents and/or Incidents
- 702. Fire and Disasters
- 703. Administrator Change
- 704. Facility Closure

**SECTION 800 - CLIENT RECORDS**

- 801. Content
- 802. Record Maintenance

**SECTION 900 - CLIENT PROCEDURES AND SERVICES**

**SECTION 1000 - CLIENT RIGHTS**

- 1001. Informed Consent
- 1002. Grievances and Complaints
- 1003. Procedures and Charges

**SECTION 1100 - MAINTENANCE**

**SECTION 1200 - INFECTION CONTROL AND ENVIRONMENT**

- 1201. Staff Practices
- 1202. Hepatitis B Vaccination
- 1203. Infection Control
- 1204. Sterilization of Equipment
- 1205. Housekeeping
- 1206. Refuse Disposal
- 1207. Infectious Waste

## **164 FINAL REGULATIONS**

### **SECTION 1300 - EMERGENCY PROCEDURES**

- 1301. Emergency Call Numbers
- 1302. Medical Emergencies

### **SECTION 1400 - FIRE PREVENTION AND PROTECTION**

- 1401. Arrangements for Fire Department Response
- 1402. Inspections
- 1403. Fire Response Training

### **SECTION 1500 - DESIGN AND CONSTRUCTION**

- 1501. General
- 1502. Adopted Codes and Standards

### **SECTION 1600 - FACILITY ACCOMMODATIONS**

- 1601. General
- 1602. Work Stations
- 1603. Supplies and Medications
- 1604. Restrooms
- 1605. Location

### **SECTION 1700 - FIRE PROTECTION EQUIPMENT AND SYSTEMS**

- 1701. Firefighting Equipment
- 1702. Flammable Liquids
- 1703. Furnishings and Equipment

### **SECTION 1800 - MOBILE UNITS AND TEMPORARY LOCATIONS**

### **SECTION 1900 - SEVERABILITY**

### **SECTION 2000 - GENERAL**

## **SECTION 100**

### **DEFINITIONS**

For the purpose of this regulation, the following definitions shall apply:

A. Administrator. The individual designated by the licensee to have the authority and responsibility to manage the facility and to be in charge of all functions and activities of the facility.

B. Adult. A person eighteen (18) years of age or older.

C. Aftercare Suggestions. Specific written information given to clients following tattooing procedures on how to promote successful healing of various tattoo sites, including infection control information and instruction.

D. Aseptic Technique. Any health care procedure in which added precautions are used to prevent contamination of a person, object, or area by microorganisms, such as by use of sterile gloves and instruments.

E. Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina to provide specific treatments, care, or services to staff members and/or clients.

F. Biohazardous. Any biological material capable of causing harm to humans, animals, or plants, including both biohazardous organisms and agents.

G. Church. An establishment, other than a private dwelling, where religious services are usually conducted.

H. Client. A person who has a tattoo procedure performed on his or her body.

I. Consultation. A visit by a Department representative(s) who will provide information to the licensee with the goal of facilitating compliance with this regulation.

J. Contaminated or Contamination. The presence of blood, infectious materials, or other types of impure materials that have corrupted a surface or item through contact.

K. Department. The South Carolina Department of Health and Environmental Control.

L. Direct Supervision. The on-site training, observation, and evaluation of a trainee by an experienced tattoo artist, including the provision of consultation and instruction.

M. Disinfection. The action of using an agent, for example, isopropyl alcohol solution, that kills germs or microorganisms.

N. Experienced Tattoo Artist. An individual who has a current and valid tattoo license or permit from a state with requirements that meet the minimum requirements of this regulation, such as training, age, or who has one thousand (1000) or more hours during the last three (3) years performing tattooing procedures in a licensed or permitted tattoo facility, as confirmed in writing by the licensee, from a state with requirements that meet the minimum requirements of this regulation.

O. Facility. Any room, space, location, area, structure, mobile unit, or business, or any part of any of these places, where tattooing is practiced or where the business of tattooing is conducted and which is licensed by the Department as a tattoo facility.

P. Germicidal. Preventing infection by inhibiting the growth or action of microorganisms.

Q. Injection Equipment. Equipment used in the practice of tattooing, including the needle(s) and the needle bar. Injection equipment does not include other parts of the tattoo machine such as grips, tubes or barrels, motors, coils, frames, binding posts, rubber bands, foot pedals, and power units.

R. Inspection. A visit by a Department representative(s) for the purpose of determining compliance with this regulation.

S. Investigation. A visit by a Department representative(s) to a licensed or unlicensed facility for the purpose of determining the validity of allegations received by the Department relating to this regulation.

T. License. A certificate issued by the Department to a facility that authorizes tattooing at that facility subject to the provisions of this regulation.

U. Licensee. The individual, corporation, partnership, organization, or public entity that has been issued a license to provide tattoo services and with whom rests the ultimate responsibility for compliance with this regulation.

V. Micropigmentation or Application of Permanent Cosmetics. A medical procedure performed above the jaw line and anterior to the ear and frontal hairline in which color or pigment is applied with a needle or electronic machine to produce a permanent mark visible through the skin. The procedure includes, but is not limited to, the application of eyeliner; eye shadow; and lip, eyebrow, or cheek color for purposes of enhanced aesthetics; scar concealment; and/or repigmentation of areas involving reconstructive surgery or trauma. Micropigmentation shall not include placing on the body any pictures, images, numbers, signs, letters of the alphabet, or designs.

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Medical micropigmentation shall not be construed to be included in the definition of tattooing as provided in Section 100.NN.

W. Minor. A person who has not attained eighteen (18) years of age.

X. Mobile Unit. A vehicle, trailer, or portable unit from which tattooing is performed.

Y. Picture Identification. A valid driver's license from any state or an official photographic identification card issued by the South Carolina Department of Revenue, a federal or state law enforcement agency, an agency of the United States Department of Defense, or the United States Department of State, such as a military ID or passport.

Z. Playground. A place, other than grounds at a private dwelling, that is provided by the public or members of a community for recreation.

AA. Release. The point at which the client's active involvement with a facility is terminated and the facility no longer maintains active responsibility for the client.

BB. Repeat Violation. The recurrence of any violation cited under the same section of the regulation within a thirty-six (36) month period. The time-period determinant of repeat violation status is not interrupted by ownership changes.

CC. Revocation of License. An action by the Department to cancel or annul a license by recalling, withdrawing, or rescinding the facility's authority to operate.

DD. Sanitized or Sanitization. A procedure that reduces the level of microbial contamination so that the item or surface is considered safe.

EE. School. An establishment, other than a private dwelling, where the customary processes of education are conducted.

FF. Sharps. Any objects, sterile or contaminated, that may purposefully or accidentally cut or penetrate the skin including, but not limited to, pre-sterilized, single-use needles, scalpel blades and razor blades.

GG. Single-use. An item that is used one (1) time on one (1) client and then is properly disposed of by appropriate measures.

HH. Staff Member. An individual who is a compensated employee of the facility on either a full or part-time basis.

II. Sterile. The condition of an object when it is free of live bacteria, spores or other microorganisms, including pathogens, usually achieved by heat or chemical means.

JJ. Sterilize or Sterilization. The approved procedure of making an object free of live bacteria, spores, or other microorganisms including pathogens, usually by heat or chemical means.

KK. Suspension of License. An action by the Department requiring a licensee to cease operation for a period of time until such time as the Department rescinds that restriction.

LL. Tattoo Artist. A staff member twenty-one (21) years of age or older who practices body tattooing at the tattoo facility and who meets the requirements of this regulation, including both experienced tattoo artists and tattoo artist trainees.

MM. Tattoo Artist Trainee. A staff member under the supervision and instruction of an experienced tattoo artist who is in the process of acquiring one thousand (1000) hours of tattoo procedure training as required in Section 603.B.

NN. Tattoo or Tattooing. To indelibly mark or color the skin by subcutaneous introduction of nontoxic dyes or pigments. The practice of tattooing does not include the removal of tattoos, the practice of branding, cutting, scarification, skin braiding, or the mutilation of any part of the body.

OO. Tattoo Procedures Training. Training that includes hands-on tattooing performed on clients and other tattooing-related activities including sterilization techniques.

PP. Temporary Location. A short-term fixed location at which tattooing is licensed and performed for a specified period of not more than fourteen (14) days.

QQ. Work Station. A work area where tattoo procedures are performed and that meets the requirements as set forth in Section 1602.

## **SECTION 200**

### **LICENSE REQUIREMENTS**

#### **201. Scope of Licensure (II)**

A. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself, including advertising or marketing, as a tattoo facility in South Carolina without first obtaining a license from the Department. Facilities that perform tattooing prior to the effective date of licensure are in violation of S.C. Code Sections 44-34-10, *et seq.*

B. When it has been determined by the Department that tattooing is being performed at a location, and the owner has not been issued a license from the Department to perform such procedures, the owner shall cease operation immediately.

C. Current or previous violations of the South Carolina Code of Laws and/or Department regulations may jeopardize the issuance of a license for the facility or the licensing of any other facility or addition to an existing facility that is owned or operated by the licensee. The facility shall provide only the procedures or services it is permitted to provide pursuant to the definition in Section 100.T of this regulation.

#### **202. License Application**

A. Applicants for a tattoo facility license shall submit to the Department a completed application on a form prescribed and furnished by the Department prior to initial licensing and periodically thereafter at intervals determined by the Department. The application includes both the applicant's oath assuring that the contents of the application are accurate and true, and that the applicant will comply with this regulation. The application shall be signed by the owner(s) if an individual or partnership; in the case of a corporation, by two (2) of its officers. The application shall set forth the full name and address of the facility for which the license is sought and of the owner in the event his or her address is different from that of the facility, and the name(s) of the person(s) in control of the facility. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with this regulation. Corporations or partnerships shall be registered with the South Carolina Office of the Secretary of State. Other required application information includes:

1. Copy of the business license, as applicable;
2. Licensing fee and certification fee, if applicable;

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3. Certified copy of local ordinance authorizing tattooing within its jurisdiction, or a letter signed by the city or county manager or administrator with authority to represent the city or county stating that tattooing is authorized within its jurisdiction;

4. Written acknowledgement of compliance with applicable federal Office of Safety and Health Administration (OSHA) requirements and certificates attesting to completion by tattoo artists of courses in bloodborne pathogens, tattoo infection control, American Red Cross First Aid, and adult cardiopulmonary resuscitation (CPR);

5. Written evidence that the individual(s) performing tattooing procedures is an experienced tattoo artist in accordance with Section 100.LL, or a tattoo artist trainee in accordance with Section 100.MM;

6. Description of the disposal methods of dyes, inks, and pigments, including written authorization for disposal from the local wastewater treatment plant or statement from landfill that disposal is in accordance with its waste acceptance plan; and

7. Legible facility floor plan, drawn to scale, including location(s) of work station(s) and identification of sterilization equipment.

B. Prospective licensees shall provide to the Department a written statement verifying that the applicant has advertised his or her intent to apply for a tattoo facility license in the legal section of the newspaper nearest to the location of the proposed facility at least once a week for three (3) consecutive weeks in accordance with S.C. Code Section 44-34-110(C).

C. A license shall not be granted to a facility, nor shall a facility conduct tattooing procedures within one thousand (1,000) feet of a church, school, or playground. This distance shall be the shortest route of ordinary pedestrian or vehicular travel along public roads from the nearest point of the grounds utilized as part of the church, school, or playground. These restrictions shall not apply to the renewal of an existing license or to ownership changes for locations that are licensed at the time the application is filed with the Department.

### **203. Compliance**

An initial license shall not be issued to a proposed facility that has not been previously and continuously licensed under Department regulations until the licensee has demonstrated to the Department that the proposed facility is in substantial compliance with this regulation. A copy of the licensing standards shall be maintained by the licensee and accessible at all times to all staff members. In the event a licensee who already has a facility or activity licensed by the Department makes application for another facility or activity, the currently licensed facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a license to the proposed facility. A licensee issued a license for a facility at a specific location shall not establish a new or additional facility without obtaining an additional license from the Department.

### **204. Issuance and Terms of License**

A. A license is issued by the Department and shall be posted in a conspicuous place in a public area within the facility.

B. The facility shall maintain a business address and telephone number at which the facility may be reached during business hours.

C. The issuance of a license does not guarantee adequacy of individual care, treatment, procedures and/or services, personal safety, fire safety, or the well-being of any client.

D. A license is not assignable or transferable and is subject to suspension or revocation at any time by the Department for the licensee's failure to comply with the laws and regulations of this state.

E. A license shall be effective for a specific facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. Except for temporary locations, a license shall remain in effect until the facility is otherwise notified by the Department.

F. Mobile units shall have a permanent mailing address. Licenses for mobile units shall indicate the permanent mailing address and that the facility is mobile. Schedules of mobile unit locations shall be submitted to the Department three (3) months in advance and shall include written evidence that the mobile unit is in compliance with the location requirements of Section 202.C.

G. Temporary locations shall have a permanent mailing address. Licenses for temporary locations shall indicate the permanent mailing address and that the license is temporary for a specified number of work stations for a specified period of time.

H. Tattoo artists and tattoo artist trainees shall perform tattooing only in licensed facilities. (I)

I. Licensed facilities shall be allowed to continue utilizing the previously-licensed structure without building modification and shall comply with the remainder of the standards within this regulation.

### **205. Licensing Fees**

A. Method of Payment. Licensing fees shall be made payable by check, credit card, or money order to the Department.

B. Fees include an initial and annual renewal fee of four hundred dollars (\$400.00) for facilities with eight (8) or fewer work stations. Facilities with more than eight (8) work stations shall pay an additional fifty dollars (\$50.00) for each additional work station. An additional amount may be charged if necessary to cover the cost of inspection or investigation.

C. Applicants for a new license shall pay an initial certification fee of fifty dollars (\$50.00) to determine compliance with Section 202.C. This certification fee is not applicable to applicants seeking licensure for mobile units.

### **206. Late Fee**

Failure to submit a renewal application or fee before the license expiration date shall result in a late fee of twenty-five percent (25%) of the licensing fee amount in addition to the licensing fee. Continual failure to submit completed and accurate renewal applications and/or fees by the time period specified by the Department may result in an enforcement action.

### **207. License Renewal**

To renew a license, an applicant shall file an application with the Department and pay a licensing fee. If an application is denied, a portion of the fee shall be refunded based upon the remaining months of the licensure period, or seventy-five dollars (\$75.00), whichever is greater. Licenses for temporary locations shall not be renewed.

### **208. Change of License**

A. A licensee shall request issuance of a new or amended license by application to the Department prior to any of the following circumstances:



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1. Change of ownership of the facility; or
2. Change in the number of work stations in the facility.

B. Changes in facility name or address as notified by the post office shall be accomplished by application or by letter from the licensee.

C. Change of facility locations from one geographic site to another shall be by letter or application to the Department in accordance with Section 202. Mobile units shall submit written evidence of compliance with Section 202.C.

## **209. Exceptions to Licensing Standards**

The Department has the authority to make exceptions to these standards when it is determined that the health, safety, and well-being of the clients will not be compromised and provided the standard is not specifically required by statute.

## **SECTION 300**

### **ENFORCEMENT OF REGULATIONS**

#### **301. General**

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed or licensed facility in order to enforce this regulation.

#### **302. Inspections and Investigations**

A. Inspections shall be conducted prior to initial licensing of a facility. The Department, at its own determination, may also conduct subsequent inspections.

B. All facilities are subject to inspection or investigation at any time without prior notice, by individuals authorized by the South Carolina Code of Laws.

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, and records at the time of the inspection. If photocopies are made for the Department inspector(s), they shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify individuals in enforcement action proceedings. Physical area of inspections shall be determined by the extent to which there is potential impact or effect upon clients as determined by the inspector(s). (II)

D. A facility found noncompliant with the standards of this regulation or governing statute shall submit an acceptable written plan of correction to the Department that shall be signed by the administrator and returned by the date specified by the Department. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences, actual and similar; and
3. The actual or expected completion dates of those actions.

E. In accordance with S.C. Code Section 44-34-40, the Department may charge a fee for licensing inspections.

## SECTION 400

## ENFORCEMENT ACTIONS

**401. General**

When the Department determines that a facility is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of a facility, the Department, upon proper notice to the licensee, may impose a monetary penalty and/or deny, suspend, revoke, or refuse to issue or renew a license.

**402. Violation Classifications**

Violations of standards in regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health, safety, or well-being of persons in the facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of this time may be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines have a negative impact on the health, safety, or well-being of persons in the facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

D. Class I and II violations are indicated by notation after each applicable section, as “(I)” or “(II).” Sections not annotated in that manner denote Class III violations. A classification at the beginning of a section and/or subsection applies to all subsections following, unless otherwise indicated.

E. In arriving at a decision to take enforcement actions, the Department will consider the following factors: the number and classification of violations, including repeat violations; specific conditions and their impact or potential impact on health, safety, or well-being of the clients; efforts by the facility to correct cited violations; behavior of the licensee that would reflect negatively on the licensee’s character, such as illegal or illicit activities; overall conditions of the facility; history of compliance; any other pertinent conditions that may be applicable to statutes and regulations.

F. When a decision is made to impose monetary penalties, the Department may utilize the following schedule as a guide to determine the dollar amount:

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### Frequency of violation of standard within a thirty-six (36) month period:

#### MONETARY PENALTY ACTIONS

FREQUENCY	CLASS I	CLASS II	CLASS III
1 <sup>st</sup>	\$500 - 1,500	\$300 - 800	\$100 - 300
2 <sup>nd</sup>	1,000 - 3,000	500 - 1,500	300 - 800
3 <sup>rd</sup>	2,000 - 5,000	1,000 - 3,000	500 - 1,500
4 <sup>th</sup>	5,000	2,000 - 5,000	1,000 - 3,000
5 <sup>th</sup>	5,000	5,000	2,000 - 5,000
6 <sup>th</sup> and more	5,000	5,000	5,000

#### SECTION 500

#### POLICIES AND PROCEDURES

A. Policies and procedures addressing each section of this regulation regarding client procedures or services, rights, infection control, the operation of the facility, including emergency procedures in the event of an adverse reaction shall be developed and implemented by the facility, and revised as appropriate in order to accurately reflect actual facility operation. Facilities shall establish a time-period for review of all policies and procedures. These policies and procedures shall be accessible at all times and a hard copy shall be available or be readily accessible electronically.

B. By application, the licensee agrees to comply with all standards of this regulation. The policies and procedures shall describe the means by which the facility shall ensure that the standards described in this regulation are met.

C. Each facility shall conspicuously display a clearly legible notice to clients informing them of any disqualification that tattooing may confer upon a prospective blood donor according to the standards of the American Association of Blood Banks. This notice shall also appear in any informed consent or release form which a tattoo artist or trainee uses, and shall be signed by the client, and contain, at a minimum, aftercare suggestions for the specific tattoo site.

#### SECTION 600

#### STAFF AND TRAINING

##### 601. General (II)

A. A facility shall make appropriate staff in numbers and training available at the facility to provide appropriate, safe tattooing procedures to clients and meet the demands of effective emergency on-site action that may arise. Training and qualifications for the tasks each performs shall be in compliance with all professional standards and applicable federal and state laws and regulations.

B. A tattoo artist shall be at least twenty-one (21) years of age and shall not be under the influence of any drugs, alcohol, or other substance that would impair his or her ability to perform tattooing. (I)

C. All new staff members shall be oriented to acquaint them with the organization and environment of the facility, their specific duties and responsibilities, including the necessary training to perform the duties, and client needs.

D. The facility shall maintain accurate current information regarding all staff members of the facility, to include at least address, phone number, health, work, and training background, as well as current health and education information. The facility shall assign duties and responsibilities to all staff members in writing and in accordance with the individual's capability and training.

**602. Administrator**

The licensee shall designate an individual to serve as administrator. The administrator shall have the authority and responsibility for the overall operation of the facility and is responsible for ensuring compliance with these regulations. An individual shall be designated, in writing, to act in the absence of the administrator. A facility tattoo artist may also serve as the administrator.

**603. Inservice Training (II)**

A. The following training shall be provided by appropriate resources as approved by the Department to all tattoo artists in the context of their job duties and responsibilities prior to client contact and at a frequency determined by the facility, but at least annually:

1. OSHA standards in bloodborne pathogens;
2. Tattooing infection control;
3. American Red Cross First Aid certification, American Safety and Health Institute Certification, or certification from a program that meets or exceeds the certification standards of the Red Cross First Aid or the American Safety and Health Institute; and
4. Adult cardiopulmonary resuscitation (CPR). (American Red Cross or the American Heart Association).

B. Prior to independently performing tattooing procedures, a tattoo artist trainee shall have a minimum of one thousand (1000) hours of tattoo procedure training within the last thirty-six (36) months under the direct supervision of an experienced tattoo artist who shall sign and maintain a written statement attesting to the completion of such training.

**604. Health Status**

No person infected with or a carrier of tuberculosis, or any other condition which may be transmitted to clients in the facility, or having boils, open or infected skin lesions shall have client contact.

**SECTION 700**

**REPORTING**

**701. Accidents and/or Incidents (II)**

A. The facility shall report each accident and/or incident resulting in unexpected death or serious injury to the next of kin, responsible party, or emergency contact for each affected individual at the earliest practicable hour, not to exceed twenty-four (24) hours. The licensee shall notify the Department immediately, not to exceed twenty-four (24) hours, via telephone, email, facsimile, or other method as determined by the Department. The licensee shall submit a report of the licensee's investigation of the accident and/or incident to the Department within five (5) calendar days. Accidents and/or incidents requiring reporting include, but are not limited to,:

1. Actual or suspected abuse by staff;

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2. Criminal event against client(s);
3. Those resulting in hospitalization;
4. Severe lacerations; and
5. Severe hematomas.

B. Reports submitted to the Department shall contain only: facility name, license number, type of accident and/or incident, date accident and/or incident occurred and location, number of clients directly injured or affected, client age and sex, number of staff directly injured or affected, witness(es) name(s), identified cause of accident and/or incident, internal investigation results if cause unknown, a brief description of the accident and/or incident including location where occurred, treatment of injuries, identity of other agencies notified, if applicable, and date of the report. The report retained by the facility, in addition to the minimum reported to the Department, shall contain: name(s) of client(s), staff, the injuries and treatment associated with each client or staff member. Records of all accidents and/or incidents shall be retained by the facility for six (6) years after the date of the report.

### **702. Fire and Disasters (II)**

The Department shall be notified immediately via telephone, email, facsimile, or other method as determined by the Department regarding any fire in the facility, or natural disaster, which jeopardizes the safety of any persons in the facility, followed by a complete written report, to include fire department reports, if any, to be submitted within a time period determined by the facility, but not to exceed seventy-two (72) hours from the occurrence of the fire or natural disaster.

### **703. Administrator Change (II)**

The Department shall be notified in writing by the licensee within ten (10) days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual and effective date of the appointment.

### **704. Facility Closure**

A. Prior to permanent closure of a facility, the licensee shall notify the Department in writing of the intent to close and the effective closure date. Within ten (10) days of closure, the facility shall notify the Department of the provisions for the maintenance of the facility records as required by regulation. On the date of closure, the current original license shall be returned to the Department.

B. In instances where a facility temporarily closes, the licensee shall notify the Department in writing within fifteen (15) days prior to temporary closure. In the event of temporary closure due to an emergency, the facility shall notify the Department in writing within twenty-four (24) hours of the closure. At a minimum this notification shall include, but not be limited to, the reason for the temporary closure, the manner in which the records are being stored, and the anticipated date for reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards to the facility prior to its reopening. If the facility is closed for a period longer than one (1) year, and there is a desire to reopen, the facility shall reapply to the Department for licensure and shall be subject to all licensing requirements at the time of that application, including construction-related requirements for a new facility.

**SECTION 800****CLIENT RECORDS****801. Content (II)**

A. The facility shall initiate and maintain a record for every individual who has undergone tattooing. The record shall contain sufficient documented information to identify the client and verify the procedure(s) performed. All entries shall be written legibly in ink or typed, signed and dated, and shall identify the author.

B. Specific entries and/or documentation shall include at a minimum:

1. Identification of the client including a means of verification of client's identity, such as a copy of the client's photo identification;

2. Explanation of client rights in accordance with Section 1000, as evidenced by the tattoo artist's and client's signature, including a signed informed consent in accordance with Section 1001;

3. Tattoo procedure performed, to include the site of the tattoo;

4. Procedures followed if an unexpected event occurs and emergency procedures taken if there is an adverse reaction;

5. Physician or other legally authorized healthcare provider signed statement that the tattoo procedure is not contraindicated in accordance with Section 900.G, if applicable; and

6. Emergency contact information for the client in case of emergency, including name, address, phone number, and other pertinent contact information.

C. The facility shall obtain a client's signed statement attesting that he or she is not intoxicated or under the influence of any drugs or alcohol.

D. The facility shall provide clients with a release or aftercare note.

**802. Record Maintenance**

A. The facility shall adequately produce, protect, and store client records.

B. Client records are confidential. Records containing protected or confidential information shall be made available only to authorized individuals in accordance with state and federal laws. The facility shall have a written policy designating the persons allowed to access confidential client information. (II)

C. The facility shall maintain client records for at least six (6) years following the release of the client. Other documents required by the regulation, such as endospore testing, shall be retained at least twelve (12) months or until the next Department inspection, whichever is longer, unless otherwise specified in this regulation. The facility shall determine the medium in which information is stored. The information shall be readily available to facility staff, as needed, and for Department inspections.

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### SECTION 900

#### CLIENT PROCEDURES AND SERVICES (I)

A. A facility shall only provide tattooing and shall not engage in any other retail business including, but not limited to, the sale of goods or performing any form of body piercing, other than tattooing. The sale of specific tattoo aftercare goods and services is permitted.

B. A tattoo artist shall verify by means of a picture identification that a client is at least eighteen (18) years of age and shall not perform or offer to perform tattooing upon a person under the age of eighteen (18).

C. The facility shall perform tattooing only for those persons for which the facility can provide the appropriate accommodations and services.

D. Tattooing shall not be performed upon a person impaired by drugs or alcohol. A person impaired by drugs or alcohol is considered incapable of consenting to tattooing and incapable of understanding tattoo procedures and aftercare suggestions.

E. Tattooing shall not be performed on skin surfaces having rash, pimples, boils, keloids, sunburn, open lesions, infections, or that manifest any evidence of unhealthy conditions.

F. A tattoo artist shall not tattoo any part of the head, face, or neck of another person.

G. Prior to performing a procedure on a client, the tattoo artist shall obtain information from the client regarding any existing condition(s) that could affect the healing process, such as allergies to medications, tattoo dyes or inks, or to latex, or taking medications such as anticoagulants that thin the blood and/or interfere with blood clotting. If a client indicates the presence of such a condition, the facility shall obtain documentation from a physician or other legally authorized healthcare provider that the procedure is not contraindicated prior to the tattooing procedure.

H. Inks, dyes or pigments used in tattooing shall be nontoxic, obtained from a commercial supplier or manufacturer and specifically manufactured for tattooing, and shall be used in accordance with manufacturer's instructions and standard professional practice. Products banned or restricted by the Food and Drug Administration (FDA) shall not be used.

I. The facility shall provide aftercare recommendations to the client to include but not be limited to:

1. Instructions for care following service;
2. Possible side effects;
3. Restrictions; and
4. Infection control information.

J. Clients shall be given the opportunity to participate in aftercare programs if offered by the facility. (II)

K. During all operating hours, tattooing shall not be performed unless there is an experienced tattoo artist present in the facility.

L. The tattoo artist is not authorized to remove a tattoo(s) or perform micropigmentation or permanent cosmetic procedures. Tattoo removal, micropigmentation or permanent cosmetic procedures shall be provided only by physicians or other legally authorized healthcare providers.

**SECTION 1000****CLIENT RIGHTS****1001. Informed Consent (II)**

A. The facility shall inform the client of the potential for any risks, and/or adverse effects or consequences regarding the tattoo procedure(s) to be performed. In all instances of tattooing, the client must voluntarily choose, in writing, to receive the procedure.

B. The informed consent process shall include information relating to disqualification that tattooing may confer upon a prospective blood donor in accordance with Section 500.C.

**1002. Grievances and Complaints (II)**

The facility shall inform the client or responsible party in writing of the grievance procedure should the client consider one or more of his or her rights violated. The facility shall include the address and phone number of the Department in the grievance procedure.

**1003. Procedures and Charges**

Tattooing procedures performed by the facility and the charges for such procedures, whether a flat fee or hourly rate, shall be stated in writing, and the client shall be made aware of such charges and procedures as verified by his or her signature, prior to the procedure. For facilities charging an hourly rate, it is acceptable to have the hourly rate in writing as opposed to a total fee.

**SECTION 1100****MAINTENANCE (II)**

A. A facility shall keep the structure, component parts, amenities, and equipment in good repair and operating condition to perform the functions for which they were designed.

B. The physical plant shall be maintained free of fire hazards or impediments to fire prevention. (I)

**SECTION 1200****INFECTION CONTROL AND ENVIRONMENT****1201. Staff Practices (I)**

Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances and for the sanitization of surfaces with an appropriate sanitizing solution. These preventive measures or practices shall be in compliance with applicable regulations and guidelines of the Occupational Safety and Health Administration (OSHA), for example, the Bloodborne Pathogens Standards; the Centers for Disease Control and Prevention; Regulation 61-105, Infectious Waste Management; and other applicable federal, state, and local laws and regulations.

**1202. Hepatitis B Vaccination (I)**

A. All tattoo artists shall have the hepatitis B vaccination series unless the vaccine is contraindicated or an individual is offered the series and declines. In either case, the decision shall be documented.



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B. Each tattoo artist who elects to have the series shall have completed the initial dose of the three (3) dose series within thirty (30) days of employment.

### 1203. Infection Control (I)

A. A tattoo artist shall utilize the following infection control measures:

1. Before and after each tattoo procedure, wash his or her hands thoroughly for a minimum of twenty (20) seconds with water and a liquid germicidal solution, used in accordance with the manufacturer's directions, and dried with single-use disposable paper towels or electric air dryer;

2. When necessary to perform a procedure on individuals who must undergo shaving of hair, utilize a single-use disposable razor;

3. The site of the tattoo shall be cleaned in a sterile surgical manner with a liquid germicidal solution approved by the Department and used in accordance with the manufacturer's direction and then swabbed with a disinfectant before tattooing;

4. Utilize single-use sterile disposable gloves when setting up equipment and performing procedures on a client and immediately replace upon notice of a tear, any contamination, or other defect;

5. Prior to any direct contact with the client, place in a sterile manner all sterile instruments and sterile tattoo items on a sterile disposable towel or drape to be used as a single sterile field throughout the procedure;

6. When conducting a procedure, use single-use disposable needles and injection equipment which are designated and sterilely packaged as single-use only; these needles and injection equipment shall not be cleaned or reused in any manner on another client;

7. Re-gloving with single-use sterile disposable surgical gloves must occur prior to initiation of the procedure, which is to be performed using aseptic techniques. Any contamination of the instruments or field shall immediately result in cessation of the procedure and nonuse of sterilized equipment until re-sterilized;

8. At all times when preparing the skin and while applying the actual tattoo, the tattoo artist shall wear single-use sterile disposable surgical gloves, which must be discarded upon completion of the tattoo;

9. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers; these used containers shall be labeled with the Universal Biohazard Symbol and the word "biohazard" and be disposed of in a manner prescribed by the Department; and

10. The work station shall be supplied with an adequate supply of paper or plastic barrier film to protect equipment and any other item that must be protected to prevent cross-contamination.

B. The use of gauze, alum, styptic pencils, or medical supplies deemed necessary to control bleeding is permissible provided that a separate disposable single-use sterile item is used on each client.

C. Single-service individual containers of ink or dye shall be used for each client and the container shall be discarded immediately after completing the procedure. Any dye or ink in which the needles were dipped shall be discarded and not used on another person.

D. If pens and/or stencils are used, only clean disposable single-use pens and stencils for transferring the design to the skin shall be used.

E. If any type of ointment is used, a single-use ointment tube or applicator shall be used.

F. All tattoo artists shall wear clean outer garments while performing tattooing procedures, maintain a high degree of personal cleanliness, and conform to hygienic practices. If lap cloths or lap towels are used, they shall be single-use only.

G. Food, drink, and the use of tobacco products in the procedure and disinfection or sterilization areas shall be prohibited. Food and/or drink is permitted in the procedure room(s) for clients with conditions which may require food and/or drink.

H. Live animals shall not be permitted in the procedure and disinfection or sterilization areas.

**EXCEPTION:** This standard does not apply to patrol dogs accompanying security or police officers, guide dogs, or other service animals accompanying individuals with a disability into the procedure area.

**1204. Sterilization of Equipment (I)**

A. All used equipment intended for reuse, such as tubes or grips, shall be properly scrubbed clean of visible materials and soaked for a minimum of twenty (20) minutes in a liquid germicidal solution approved by the Department, which shall be used in accordance with the manufacturer’s direction. The equipment shall then be immediately placed in a mechanical ultrasonic cleanser for at least twenty-five (25) minutes prior to being re-sterilized by autoclave. The ultrasonic cleanser shall be clearly labeled as “biohazardous” and shall be located as far as possible from the autoclave within the disinfection or sterilization area.

B. A facility utilizing single-use or disposable equipment and/or instruments shall not be required to re-sterilize by autoclave those single-use and/or disposable items provided they are utilized and disposed of in accordance with the manufacturer’s direction and not reused in any manner on another client.

C. Facilities shall properly package and sterilize by autoclave those instruments, equipment, and other tattoo items other than inks and electrical instruments that are not single-use or disposable, shall include a sterile indicator, and shall include a label with the date of sterilization. Sterile items shall not be used if the package integrity has been breached.

D. Each facility shall keep a current written log for the previous two (2) years of autoclave use, including, but not limited to, the date and time of use and results of sterilization spore test strip tests.

E. The effectiveness of the autoclave in killing bacterial endospores shall be tested at least once each month.

**1205. Housekeeping (II)**

The interior and exterior of the facility shall be uncluttered, clean, free of safety hazards, and free of vermin and offensive odors.

A. Interior housekeeping of the facility shall, at a minimum, include:

1. Cleaning each specific area of the facility;
2. Cleaning and disinfection, as needed, of equipment and supplies used and/or maintained in each area, appropriate to the area and purpose or use of the equipment or supplies; and
3. Safe storage and use of chemicals indicated as harmful on the product label, cleaning materials, and supplies in cabinets or well-lighted closets and/or rooms, inaccessible to clients.

B. Exterior housekeeping at a facility shall, at a minimum, include:

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1. Cleaning of all exterior areas, such as porches and ramps, and removal of safety impediments such as snow or ice; and

2. Keeping the facility grounds reasonably free of weeds, rubbish, overgrown landscaping, and other potential breeding sources of vermin.

C. The discharge of dyes, inks, and pigments shall be accomplished in a safe manner with written consent prior to discharge from the local wastewater treatment plant. Where the treatment for discharge of dyes, inks, or pigments is performed by the facility, or where there is direct discharge into the environment, such actions shall be in compliance with Regulation 61-67, Standards for Wastewater Facility Construction, and/or Regulation 61-9, Water Pollution Control Permits. The discharge of dyes, inks, or pigments into a septic tank system is prohibited.

### **1206. Refuse Disposal**

A. A facility shall deposit all garbage and refuse in suitable watertight containers. A facility shall dispose of rubbish and garbage in accordance with local requirements.

B. A facility shall cover and store refuse containers outside on an approved platform constructed of concrete, wood, or asphalt and secured in such a manner so as to prevent overturning by animals, the entrance of flies, or the creation of a nuisance. A facility shall thoroughly clean garbage and trash containers as necessary to prevent the creation of a nuisance.

### **1207. Infectious Waste (I)**

Accumulated waste, including all contaminated sharps, dressings, pathological, and/or similar infectious waste, shall be disposed of in a manner compliant with OSHA Bloodborne Pathogens Standards and R.61-105.

## **SECTION 1300**

### **EMERGENCY PROCEDURES**

#### **1301. Emergency Call Numbers (I)**

A facility shall post emergency call data in a conspicuous place and shall include at least the telephone numbers of fire and police departments, ambulance service, and the poison control center. Other emergency call information shall be available, to include the names, addresses, and telephone numbers of staff members to be notified in case of emergency.

#### **1302. Medical Emergencies (I)**

Medical emergencies shall be managed in a manner to ensure the health, safety and well-being of clients and staff.

## **SECTION 1400**

### **FIRE PREVENTION AND PROTECTION**

#### **1401. Arrangements for Fire Department Response (I)**

Facilities located outside of a service area or range of a public fire department shall arrange, by written agreement, for the nearest fire department to respond in case of fire. A copy of the agreement shall be kept on

file in the facility and a copy shall be forwarded to the Department. If the agreement is changed, a copy shall be forwarded to the Department.

**1402. Inspections (I)**

A facility shall maintain and test fire protection systems in accordance with the applicable provisions of the codes officially adopted by the South Carolina State Fire Marshal.

**1403. Fire Response Training (I)**

A. A facility shall provide fire response training for each staff member within forty-eight (48) hours of his or her first day of employment in the facility and at least annually thereafter. A new facility seeking initial licensing shall provide the Department with evidence of fire response training for each staff member prior to the initial licensing inspection. Fire response training shall address, at a minimum, the following:

1. Fire plan, including the training of staff members;
2. Reporting a fire;
3. Use of the fire alarm system, if applicable;
4. Location and use of fire-fighting equipment;
5. Methods of fire containment;
6. Specific responsibilities, tasks, and/or duties of each staff member; and
7. Fire evacuation plan, including routes and procedures.

B. A facility shall establish a plan for the evacuation of clients and staff members to include procedures and evacuation routes out of the facility, in case of fire or other emergencies, and the plan shall be posted in conspicuous public areas throughout the facility.

**SECTION 1500**

**DESIGN AND CONSTRUCTION**

**1501. General (II)**

A facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each client.

**1502. Adopted Codes and Standards (II)**

Facility design and construction shall comply with applicable provisions of this regulation and the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

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### SECTION 1600

#### FACILITY ACCOMMODATIONS

##### 1601. General (II)

A. A facility shall include an area for the purpose of disinfecting and sterilization of equipment that shall be physically separate from the area used for tattoo procedures to avoid cross-contamination of equipment. These areas shall be separated from each other and from waiting clients by a door, divider, or wall. A facility shall not store or otherwise keep supplies or equipment not utilized for disinfection or sterilization in this area.

B. All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.

C. Adequate potable water for the needs of the facility shall be provided from an approved source and shall be available and accessible to clients.

D. Adequate artificial lighting shall be provided in the procedure rooms and disinfection or sterilization areas.

E. Emergency electrical service shall be provided for work station lighting, corridor egress, and exit sign lighting.

##### 1602. Work Stations

A. The work station shall be sized to accommodate necessary equipment or supplies, staff, and procedure table, but not less than sixty-four (64) square feet of floor space, exclusive of fixed cabinets or shelves. The work station shall be utilized exclusively for tattooing. Multiple work stations shall be separated by dividers, curtains, walls, or partitions measuring at least four (4) feet in height.

1. Wall and floor surfaces of the work stations and disinfection or sterilization rooms shall be nonporous and easily cleanable.

2. A separate, properly identified sink, with hot and cold running water, used for disinfection practices only shall be located in the disinfection or sterilization area.

3. At least one (1) sink, with hot and cold running water, shall be provided for every five (5) work stations for hand washing. There shall be a wall-mounted single-use paper dispenser or electric air dryer adjacent to each sink. Restroom sinks are included in this calculation.

B. Procedure tables shall be constructed of a nonporous, sanitizable material.

C. Work stations shall be separated from client waiting areas by door, divider, curtain, wall, or partition.

##### 1603. Supplies and Medications

A. A standard first aid kit or equivalent first aid supplies shall be readily accessible in the facility and shall contain at a minimum:

1. 4" X 4" gauze pads;
2. Benzalkonium swabs;
3. 2" X 2" gauze pads;

4. Gauze roller bandage;
5. Cardiopulmonary resuscitation (CPR) mouth barrier device; and
6. Eyewash solution.

B. A facility shall properly store and safeguard topical and oral medications to prevent access by unauthorized persons. Medication storage areas shall be secured and of sufficient size for clean and orderly storage. Storage areas shall not be located near sources of heat, humidity, or other hazards that may negatively impact medication effectiveness or shelf life. Expired or discontinued medications and supplies shall be removed from the facility and destroyed. (I)

**1604. Restrooms (II)**

A. There shall be an appropriate number of restrooms in the facility, to accommodate clients, staff, and visitors. The minimum requirement is one (1) toilet fixture for every five (5) tattoo work stations.

B. The restrooms shall be accessible during all operating hours of the facility.

C. A restroom(s) shall be equipped with at least one (1) toilet fixture, toilet paper installed in a holder, a sink supplied with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a covered waste receptacle. Equipment and supplies used in the course of tattoo procedures or disinfection and sterilization procedures shall not be stored or utilized in the restroom.

D. Restroom floor areas shall be no less than fifteen (15) square feet.

E. There shall be at least one (1) sink for every two (2) toilet fixtures located within a restroom.

F. Privacy shall be provided at toilet fixtures and urinals.

G. Restrooms for persons with disabilities shall be provided as required by codes whether or not any of the staff or clients are disabled.

H. All restroom floors shall be entirely covered with an approved nonabsorbent covering. Walls shall be nonabsorbent, washable surfaces to the highest level of splash.

**1605. Location**

A. Transportation. The facility shall be served by roads that are passable at all times and are adequate for the volume of expected traffic.

B. Parking. The facility shall have a parking area to reasonably satisfy the needs of clients, staff members, and visitors.

C. Access to firefighting equipment. Facilities shall maintain adequate access to and around the building(s) for firefighting equipment. (I)

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### **SECTION 1700**

#### **FIRE PROTECTION EQUIPMENT AND SYSTEMS**

##### **1701. Firefighting Equipment (I)**

Firefighting equipment such as fire extinguishers, standpipes and automatic sprinklers shall be provided as required by the applicable codes in Section 1502.

##### **1702. Flammable Liquids (I)**

The storage and handling of flammable liquids shall be in accordance with the applicable codes in Section 1502.

##### **1703. Furnishings and Equipment (I)**

A. The physical plant shall be maintained free of fire hazards and impediments to fire prevention.

B. No portable electric or unvented fuel heaters shall be permitted at the facility.

C. Wastebaskets, window dressings, portable partitions and dividers, cubicle curtains, mattresses, and pillows shall be noncombustible, inherently flame-resistant, or treated or maintained flame-resistant. Window blinds shall not require flame treatments or documentation thereof.

### **SECTION 1800**

#### **MOBILE UNITS AND TEMPORARY LOCATIONS**

All mobile units and temporary locations shall meet the standards of this regulation. Mobile units shall meet the standards of the state, federal, and local departments of transportation for the permitting and safe operation of the unit. Mobile units and temporary locations shall not be located within one thousand (1,000) feet of a church, school, or playground in accordance with Section 202.C.

### **SECTION 1900**

#### **SEVERABILITY**

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

### **SECTION 2000**

#### **GENERAL**

Conditions which have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

##### **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 1976 Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Regulation 61-111, *Standards for Licensing Tattoo Facilities*.

Purpose: The purpose of these amendments to Regulation 61-111 is to update and clarify standards pertaining to tattoo facilities. These amendments provide updates to licensing requirements, accident and/or incident reports, client rights, infection control and sterilization, regulation enforcement, emergency procedures, fire and life safety requirements, and construction design requirements. The amendments also incorporate provider-wide exceptions applicable to tattoo facilities. In addition, provisions have been amended for general clarity, readability, grammar, references, codification and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-34-10, et seq.

Plan for Implementation: Upon approval by the General Assembly and publication in the *State Register* as a final regulation, a copy of Regulation 61-111, which includes these latest amendments, will be available electronically on the Department's Laws and Regulations website under the Health Licensing category at: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations>. Subsequently, this revised 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 REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:**

Pursuant to 1976 Code Section 1-23-120(J), the Department is required to perform a formal review of its regulations every five (5) years and update them if necessary. Regulation 61-111 has not been substantively updated since its promulgation in 2006. These amendments are necessary to reflect updates in the applicable statutory authority, and update references to procedures, practices, and definitions that are outdated and/or inapplicable. The amendments further clarify and improve accident and/or incident reporting requirements, client rights, infection control and sterilization, emergency procedures, fire and life safety requirements, and incorporate provider-wide exceptions applicable to tattoo facilities.

**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. Amendments to Regulation 61-111 update and clarify permitting requirements, client rights, accident and/or incident reporting requirements, update emergency procedures and fire and life safety requirements, and clarify infection control and sterilization requirements.

**UNCERTAINTIES OF ESTIMATES:**

None.

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

The amendments to Regulation 61-111 seek to support the Department's goals relating to protection of public health through the anticipated benefits highlighted above. There is no anticipated effect on the environment.



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### 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 is amending Regulation 61-111 pursuant to the 1976 Code Section 1-23-120(J) requirement that the Department perform a formal review of its regulations every five (5) years and update them if necessary. The amendments update Regulation 61-111 to align with current statutory authority and current industry standards. The amendments address issues regarding licensing requirements, emergency procedures and fire and life safety requirements, accident and/or incident reporting ambiguities, update infection control and sterilization requirements to current standards, and incorporate provider-wide exceptions applicable to tattoo facilities.

Document No. 4569

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-32-10 et seq.

61-109. Standards for Permitting Body Piercing Facilities

### Synopsis:

Regulation 61-109 has not been substantively updated since 2002. The amendments to R.61-109 are necessary to align the regulation with current statutory authority and current industry standards. The amendments herein include the Department's effort to incorporate updates and clarification relating to permitting requirements, accident and/or incident reporting requirements, client rights, infection control and sterilization, regulation enforcement, emergency procedures, fire and life safety requirements, and construction design requirements. In addition, corrections have been made for clarity, readability, grammar, references, codification, and overall improvement to the text of the regulation.

A Notice of Drafting was published in the *State Register* on February 27, 2015.

### Section-by-Section Discussion of Amendments

Statutory authority for this regulation was added under the title of the regulation and before the table of contents.

### TABLE OF CONTENTS

The table was revised to reflect the amendments.

### 61-109.100. Definitions (formerly 61-109.101)

The definition of Responsible Party has been added to 61-109.100.T. The definitions of 61-109.100.A (formerly 61-109.101.A) Administrator, 61-109.100.B (formerly 61-109.101.B) Adult, 61-109.100.D (formerly 61-109.101.D) Authorized Healthcare Provider, 61-109.100.G (formerly 61-109.101.G) Consultation, 61-109.100.I (formerly 61-109.101.I) Department, 61-109.100.J (formerly 61-109.101.J) Disinfection, 61-109.100.M (formerly 61-109.101.N) Inspection, 61-109.100.N (formerly 61-109.101.O) Investigation, 61-109.100.O (formerly 61-109.101.P) Minor, 61-109.100.P (formerly 61-109.101.R) Picture Identification, 61-109.100.S (formerly 61-109.101.U) Repeat Violation, 61-109.100.V (formerly 61-109.101.W) Sterilization, 61-109.100.X (formerly 61-109.101.Y) Technician have been amended. The definitions of 61-109.101.L Existing Facility, and

61-109.101.Q New Facility, have been deleted. The remaining definitions were renumbered to adjust the codification.

**61-109.102. References**

Section 61-109.102 has been deleted.

**61-109.200. PERMIT REQUIREMENTS (formerly 61-109.103)**

The amendment revises Section 61-109.200 (formerly 61-109.103) to adjust the codification.

**61-109.201. Scope of Permit (formerly 61-109.103.A)**

The amendment updates the subsection title of Section 61-109.201 (formerly 61-109.103.A) and corrects a section reference and citation format.

**61-109.202. Permit Application (formerly 61-109.103.E)**

Section 61-109.202 was relocated from former Section 61-109.103.E. The section was further amended to correct applicable section references and update the requirements for permit applications. Section 61-109.202.B.3 was added to require a written agreement with a public fire department arranging for emergency response, if applicable.

**61-109.203. Compliance (formerly 61-109.103.B)**

Section 61-109.203 (formerly 61-109.103.B) was amended to adjust the codification.

**61-109.204. Issuance and Terms of Permit (formerly 61-109.103.C)**

Section 61-109.204 (formerly 61-109.103.C) has been amended to adjust the codification and delineate violation classifications for certain items. Section 61-109.204.C (formerly 61-109.103.C.3) was amended to indicate permits are subject to suspension. Section 61-109.204.F (formerly 61-109.103.D) has been amended to allow permitted facilities to continue utilizing the previously-permitted structure without building modification.

**61-109.205. Permitting Fees (formerly 61-109.103.F)**

Section 61-109.205.A (formerly 61-109.103.F) was amended to allow permitting fees to be paid by check, credit card, or money order. The remaining items have been amended to adjust the codification.

**61-109.206. Permit Renewal (formerly 61-109.103.G)**

Section 61-109.206 (formerly 61-109.103.G) was amended to clarify the requirements for permit renewal and remove unnecessary language.

**61-109.207. Change of Permit (formerly 61-109.103.H)**

Section 61-109.207.A (formerly 61-109.103.H.1) has been amended to require facilities to request an amended permit prior to any change of ownership of the facility. Section 61-109.207.B (formerly 61-109.103.H.1.b) has been amended to require facilities moving from one geographic site to another to notify the Department by application or letter.

**61-109.300. ENFORCEMENT OF REGULATIONS (formerly 61-109.200)**

The section title was amended for regulatory consistency and the subsections were amended to update the codification.

**61-109.301. General (formerly 61-109.201)**

This section was amended to adjust the codification.

**61-109.302. Inspections and Investigations (formerly 61-109.202)**

The subsection title was amended for regulatory consistency. Section 61-109.302.B (formerly 61-109.202.B) was amended to subject facilities to inspection or investigation at any time by legally authorized individuals. Section 61-109.302.C (formerly 61-109.202.C) was amended to clarify Department access during inspections

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and requirements of photocopies for inspection purposes. Section 61-109.302.E (formerly 61-109.202.E) was amended to allow the Department to charge a fee for permitting inspections. Sections 61-109.202.F and 61-109.202.G have been deleted as these requirements are incorporated into other parts of the regulation.

### **61-109.303. Probation (formerly 61-109.203)**

This section was updated to adjust the codification.

### **61-109.204. Consultations**

This section has been deleted.

### **61-109.400. ENFORCEMENT ACTIONS (formerly 61-109.300)**

This section was amended to update the codification. Section 61-109.401 (formerly 61-109.301) was amended to remove the certified or registered mail requirement. Section 61-109.402 (formerly 61-109.302) has been amended for regulatory consistency. Section 61-109.302.F has been deleted.

### **61-109.500. POLICIES AND PROCEDURES (formerly 61-109.400)**

Section 61-109.500.A (formerly 61-109.401.A) was amended for clarity. Section 61-109.500.B (formerly 61-109.401.B) was amended to correct a grammatical error. Section 61-109.500.C was relocated from former Section 61-109.103.J.

### **61-109.600. STAFF AND TRAINING (formerly 61-109.500)**

The section title was amended to indicate the regulatory items therein. Section 61-109.601.A (formerly 61-109.501.A) was amended for grammar and clarity. Section 61-109.601.B (formerly 61-109.501.B) was amended to prohibit technicians from being under the influence of any drugs, alcohol, or other substance that would impair his or her ability to perform body piercing. Section 61-109.501.C was deleted and relocated to a new subsection.

### **61-109.602. Administrator (formerly 61-109.501.C)**

The requirements of the facility administrator have been relocated from former Section 61-109.501.C.

### **61-109.603. Inservice Training (formerly 61-109.502)**

Section 61-109.603.A (formerly 61-109.502.A) has been amended to delineate the required training for technicians and to incorporate applicable provider-wide exceptions for training.

### **61-109.604. Health Status (formerly 61-109.503)**

This section was amended to adjust the codification.

### **61-109.700. REPORTING (formerly 61-109.600)**

This section was updated to adjust the codification.

### **61-109.701. Accidents and/or Incidents (formerly 61-109.601)**

The subsection title was amended for regulatory consistency and clarity. Section 61-109.701.A (formerly 61-109.601.A) has been amended to require facilities to submit reports of accidents and/or incidents to the Department within five (5) calendar days by telephone, email, facsimile, or other method as determined by the Department. Section 61-109.701.A (formerly 61-109.601.A) was also amended to delineate the accidents and/or incidents required to be reported. Section 61-109.701.B (formerly 61-109.601.B) has been amended to delineate the requirements of the report submitted to the Department.

### **61-109.702. Fire and Disasters (formerly 61-109.602)**

The section title has been amended for clarity and regulatory consistency. Section 61-109.702 (formerly 61-109.602.A) has been amended to require reporting by telephone, email, facsimile, or other method as determined by the Department. Section 61-109.602.B has been deleted as these requirements have been consolidated to one paragraph.

**61-109.703. Administrator Change (formerly 61-109.603)**

Section 61-109.703 (formerly 61-109.603) has been amended to adjust the codification and for clarity and consistency.

**61-109.704. Facility Closure (formerly 61-109.604)**

Section 61-109.704.A (formerly 61-109.604) has been amended to require facilities to notify the Department within ten (10) days of the provisions for the maintenance of facility records. Section 61-109.704.B was added to address the requirements for temporary closure of facilities.

**61-109.800. CLIENT RECORDS (formerly 61-109.700)**

This section was amended to adjust the codification.

**61-109.801. Content (formerly 61-109.701)**

Section 61-109.801.A (formerly 61-109.701.A) has been amended to require that the client record contain sufficient information to identify the client and verify the procedure(s) performed. Section 61-109.801.B (formerly 61-109.701.B) has been amended to require in the client record the means of verification of the client's identity, an explanation of client rights including applicable informed consent documents, the site of the piercing, and emergency contact information for the client. Section 61-109.801.C (formerly 61-109.701.D) has been amended to require facilities to provide clients with a release or aftercare note.

**61-109.802. Record Maintenance (formerly 61-109.702)**

Section 61-109.802.C has been added to require facilities to maintain client records for at least six (6) years following release of the client and to require this information to be readily available to staff as needed and for Department inspections.

**61-109.900. CLIENT PROCEDURES AND SERVICES (formerly 61-109.800)**

The section title was amended to adjust the codification and for regulatory consistency.

**61-109.901. General (formerly 61-109.801)**

Section 61-109.901.E (formerly 61-109.801.E) has been amended to require technicians to obtain information from the client regarding any existing conditions that could affect the healing process or if he or she is taking medications that may thin the blood and/or interfere with blood clotting. Section 61-109.901.G has been added to require facilities to provide aftercare recommendations to the client prior to performing any body piercing procedure and delineates the requirements thereof.

**61-109.902. Age Restrictions (formerly 61-109.802)**

The section title has been amended for clarity. Section 61-109.902.B has been amended to require the presence of the minor's responsible party or a notarized statement by the minor's responsible party in order to perform procedures on a minor. Section 61-109.802.C has been deleted to conform to statutory authority.

**61-109.1000. CLIENT RIGHTS (formerly 61-109.900)**

This section has been amended to adjust the codification.

**61-109.1001. Informed Consent (formerly 61-109.901)**

Section 61-109.1001.C was added to require the informed consent process to include information relating to disqualification body piercing may confer upon a prospective blood donor, and aftercare recommendations for the body piercing procedure.

**61-109.1002. Grievances and Complaints (formerly 61-109.902)**

The section title has been amended for regulatory consistency. Section 61-109.1002 (formerly 61-109.902) has been amended to require facilities to inform the client or responsible party in writing of the grievance procedure.

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### **61-109.1003. Procedures and Charges (formerly 61-109.903)**

Section 61-109.1003 (formerly 61-109.903) has been amended to require procedures and charges to be stated in writing to the client or responsible party prior to the procedure and verified by the client or responsible party.

### **61-109.1100. MAINTENANCE (formerly 61-109.1000)**

Section 61-109.1100.A (formerly 61-109.1001.A) has been amended to require facilities to keep the structure, component parts, amenities, and equipment in good repair and operation condition to perform the functions for which they were designed.

### **61-109.1200. INFECTION CONTROL AND ENVIRONMENT (formerly 61-109.1100)**

The section title has been amended to adjust the codification.

### **61-109.1201. Staff Practices (formerly 61-109.1101)**

Section 61-109.1201 (formerly 61-109.1101) has been amended to update and correct references to other regulatory documents and standards.

### **61-109.1202. Hepatitis B Vaccination (formerly 61-109.1102)**

Section 61-109.1202.A (formerly 61-109.1102.A) has been amended to require all technicians to have the hepatitis B vaccination series unless the vaccine is contraindicated or the individual is offered the series and declines, and to require that the decision be documented. Section 61-109.1202.B (formerly 61-109.1102.B) has been amended to require those receiving the hepatitis B vaccination series to have the initial dose of the three (3) dose series within thirty (30) days of employment.

### **61-109.1203. Infection Control (formerly 61-109.1103)**

Section 61-109.1203.A.1 (formerly 61-109.1103.A.1) has been amended to require technicians to wash his or hands thoroughly for a minimum of twenty (20) seconds with water and a germicidal solution approved by the Department and used in accordance with the manufacturer's directions, and to require hand drying by single-use disposable paper towels or electric air dryer. Section 61-109.1203.A.3 (formerly 61-109.1103.A.3) has been amended to require the site of the body piercing to be cleaned in a sterile surgical manner and then swabbed with a disinfectant prior to piercing. Section 61-109.1203.A.4 (formerly 61-109.1103.A.4) has been amended to require technicians to utilize single-use sterile disposable gloves when setting up equipment and performing procedures on clients. Section 61-109.1203.A.7 (formerly 61-109.1103.A.7) has been amended to require that all single-use needles, razors, and other sharps be disposed of in accordance with Regulation 61-105, Infectious Waste Management Regulations.

### **61-109.1204. Sterilization of Equipment (formerly 61-109.1104)**

Section 61-109.1204.C has been added to allow facilities utilizing single-use or disposable equipment and/or instruments to be exempt from re-sterilizing by autoclave those single-use and/or disposable items provided they are utilized and disposed of in accordance with the manufacturer's directions and not reused in any manner on another client. The remaining items have been amended to adjust the codification.

### **61-109.1205. Housekeeping (formerly 61-109.1105)**

Section 61-109.1105.B has been deleted and relocated to new Section 61-109.1206. Section 61-109.1205.B (formerly 61-109.1105.C) has been amended to clarify the requirements of exterior housekeeping.

### **61-109.1206. Refuse Disposal**

Section 61-109.1206 was relocated from former Section 61-109.1105.B. Section 61-109.1206.A requires facilities to deposit all garbage and refuse in suitable watertight containers and dispose of rubbish and garbage in accordance with local requirements. Section 61-109.1206.B requires facilities to cover and store refuse containers outside on an approved platform and secured and thoroughly cleaned as necessary in a manner to prevent the creation of a nuisance.

**61-109.1207. Infectious Waste (formerly 61-109.1106)**

Section 61-109.1207 (formerly 61-109.1106) has been amended to conform to codification standards.

**61-109.1300. EMERGENCY PROCEDURES**

This section has been amended to adjust the codification.

**61-109.1301. Emergency Call Numbers (formerly 61-109.1201)**

Section 61-109.1301 (formerly 61-109.1201) has been amended to require facilities to post emergency call data in a conspicuous place and to require at least telephone numbers of fire and police departments, ambulance service, and the poison control center, as well as names and contact information of staff members to be notified in case of emergency.

**61-109.1302. Medical Emergencies (formerly 61-109.1202)**

Section 61-109.1302 (formerly 61-109.1202) has been amended for grammar.

**61-109.1400. FIRE PREVENTION AND PROTECTION (formerly 61-109.1300)**

Section 61-109.1400 (formerly 61-109.1300) and subsections have been amended to adjust the codification.

**61-109.1401. Arrangements for Fire Department Response (formerly 61-109.1301)**

This section was amended for clarity and to adjust the codification.

**61-109.1402. Inspections (formerly 61-109.1302)**

Section 61-109.1402 (formerly 61-109.1302) has been amended to require facilities to maintain and test fire protection systems in accordance with the applicable provisions of the codes officially adopted by the South Carolina State Fire Marshal.

**61-109.1303. Evacuation Plan**

Section 61-109.1303 has been deleted and the requirements have been incorporated into Section 61-109.1403 (formerly 61-109.1304).

**61-109.1403. Fire Response Training (formerly 61-109.1304)**

Section 61-109.1403.A (formerly 61-109.1304) has been amended to require facilities to provide technicians and staff members with fire response training within forty-eight (48) hours of his or her first day of employment in the facility. Section 61-109.1403.A (formerly 61-109.1304) has been further amended to require new facilities seeking an initial permit to provide the Department with evidence of fire response training for each technician and staff member prior to the initial permitting inspection. Section 61-109.1403.A.7 has been added to require the fire evacuation plan and routes and procedures to be included in fire response training. Section 61-109.1403.B has been added to require the evacuation plan to be posted in conspicuous public areas throughout the facility.

**61-109.1500. DESIGN AND CONSTRUCTION**

Section 61-109.1501 has been added to require facilities to be planned, designed, and equipped to provide and promote the health, safety, and well-being of each client. Section 61-109.1502 has been added to require facility design and construction to comply with applicable provisions of the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

**61-109.1600. FACILITY ACCOMMODATIONS (formerly 61-109.1400)**

This section was amended to adjust the codification.

**61-109.1601. General (formerly 61-109.1401)**

Section 61-109.1601.A (formerly 61-109.1401.A) has been amended to require that the disinfection and sterilization room be separated from the procedure room by door, divider, or wall. Section 61-109.1601.A (formerly 61-109.1401.A) has been further amended to prohibit facilities from storing or keeping supplies or

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equipment not utilized for disinfection or sterilization in the room used exclusively for disinfection or sterilization. Section 61-109.1601.B has been added to require adequate artificial lighting in the procedure rooms and disinfection or sterilization rooms. Section 61-109.1601.C has been added to require emergency electrical service for procedure room lighting, corridor egress, and exit sign lighting.

### **61-109.1602. Procedure Rooms**

Section 61-109.1602.A has been added to require procedure rooms to be not less than sixty-four (64) square feet of floor space, exclusive of fixed cabinets or shelves. Section 61-109.1602.A further states that multiple work stations shall be separated by dividers, curtains, walls, or partitions measuring at least four (4) feet in height. Section 61-109.1602.C was added to require each procedure room to have a high efficiency particulate air (HEPA) filter.

### **61-109.1603. First Aid Kit (formerly 61-109.1401.C)**

Section 61-109.1603.E has been added to require that facility first aid kits be equipped with a cardiopulmonary resuscitation (CPR) mouth barrier device. The remaining items of Section 61-109.1401 have been deleted as these requirements have been incorporated into other sections of the regulation.

### **61-109.1604. Restrooms**

Section 61-109.1604.A was added to require facilities to have an appropriate number of restrooms to accommodate clients, staff, and visitors. Section 61-109.1604.B was added to delineate the required equipment in restrooms. Section 61-109.1604.C has been added to prohibit equipment and supplies used for body piercing from being stored in restrooms. Section 61-109.1604.D was added to require one (1) sink for every two (2) toilets in restrooms. Section 61-109.1604.E was added to require privacy at toilet fixtures and urinals. Section 61-109.1604.F was added to require facilities to provide restrooms for persons with disabilities. Section 61-109.1604.G was added to require that restroom floors be covered with an approved nonabsorbent covering and walls be nonabsorbent, washable surface to the highest level of splash.

### **61-109.1700. MOBILE UNITS (formerly 61-109.1500)**

Section 61-109.1700 (formerly 61-109.1501) has been amended to adjust the codification and to indicate the applicable violation classification for mobile units.

### **61-109.1800. SEVERABILITY (formerly 61-109.1600)**

Section 61-109.1800 (formerly 61-109.1600) has been amended to adjust the codification.

### **61-109.1900. GENERAL (formerly 61-109.1700)**

Section 61-109.1900 (formerly 61-109.1700) has been amended to adjust the codification.

**Instructions:** Replace Regulation 61-109, Standards for Permitting Body Piercing Facilities, in its entirety.

**Text:**

### **61-109. Standards for Permitting Body Piercing Facilities.**

Statutory Authority: 1976 Code Section 44-32-10, et seq.

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## **SECTION 100 - DEFINITIONS**

For the purpose of this regulation, the following definitions shall apply:

A. Administrator. The individual designated by the facility permit holder to have the authority and responsibility to manage the facility and to be in charge of all functions and activities of the facility.

B. Adult. A person eighteen (18) years of age or older.

C. Aftercare. Services provided to clients, when necessary, after their release from a facility.

D. Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina to provide specific treatments, care, or services to technicians and/or clients.

E. Body Piercing. The creation of an opening in the body of a human being so as to create a permanent hole for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose, or eyebrow, but does not include piercing an ear lobe with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear lobe.

F. Client. A person who has a body piercing procedure performed on his or her body.

G. Consultation. A visit by Department representative(s) who will provide information to facilities with the goal of facilitating compliance with these regulations.

H. Contaminated or Contamination. The presence of blood, infectious materials, or other types of impure materials that have corrupted a surface or item through contact.

I. Department. The South Carolina Department of Health and Environmental Control.

J. Disinfection. The action of using an agent, such as isopropyl alcohol solution, that kills germs or microorganisms.

K. Ear Lobe. The lower portion of the ear which contains no cartilage.

L. Facility. Any room, space, location, area, structure, mobile unit or business, or any part of any of these places, identifiable by a mailing address, where body piercing is practiced or where the business of body piercing is performed.

M. Inspection. A visit by a Department representative(s) for the purpose of determining compliance with this regulation.

N. Investigation. A visit by a Department representative(s) to a permitted or unpermitted entity for the purpose of determining the validity of allegations received by the Department relating to this regulation.

O. Minor. Any person who has not attained eighteen (18) years of age.

P. Picture Identification. A valid driver's license from any state or an official photographic identification card issued by the South Carolina Department of Revenue, a federal or state law enforcement agency, an agency of the United States Department of Defense, or the United States Department of State, such as a military ID or passport.

Q. Probation. An action taken by the Department in which a facility is notified that it must comply with the provisions of this regulation within a specified period of time or enforcement actions may be imposed.

R. Release. The point at which the client's active involvement with a facility is terminated and the facility no longer maintains active responsibility for the client.

S. Repeat Violation. The recurrence of any violation cited under the same section of the regulation within a thirty-six (36) month period. The time-period determinant of repeat violation status is not interrupted by ownership changes.

T. Responsible Party. A person who is authorized by the client or by law to make decisions on behalf of the client, to include but not be limited to, a court-appointed guardian or conservator, or a person with a health care or other durable power of attorney.

U. Sanitize or Sanitization. A procedure that reduces the level of microbial contamination so that the item or surface is considered safe.

V. Sterilization. The approved procedure of making an object free of live bacteria, spores, or other microorganisms including pathogens, usually by heat or chemical means.

W. Suspend Permit. An action by the Department requiring a facility to cease operations for a period of time until such time as the Department rescinds that restriction.

X. Technician. A person who practices body piercing in South Carolina and is in compliance with this regulation.

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### SECTION 200 - PERMIT REQUIREMENTS

#### 201. Scope of Permit

A. No person, private or public organization, political subdivision, or governmental agency shall establish, operate, maintain, or represent itself, such as advertising or marketing, as a body piercing facility in South Carolina without first obtaining a permit from the Department. Facilities that perform body piercing prior to the effective date of permitting are in violation of S.C. Code Sections 44-32-10, *et seq.*

B. When it has been determined by the Department that body piercing is being performed at a location, and the owner has not been issued a permit from the Department to perform such procedures, the owner shall cease operation immediately.

C. Current or previous violations of the South Carolina Code of Laws and/or Department regulations may jeopardize the issuance of a permit for the facility or the permitting of any other facility or addition to an existing facility which is owned or operated by the permit holder. The facility shall provide only the procedures or services it is permitted to provide pursuant to the definition in Section 100 of this regulation.

#### 202. Permit Application

A. Prior to applying to the Department for a permit, a proposed facility shall:

1. Obtain a copy of this regulation from the Department, and sign and return to the Department an acknowledgement upon receipt; and

2. Ensure that all technicians comply with all applicable federal Office of Safety and Health Administration (OSHA) requirements or guidelines, and obtain certificates attesting to the successful completion of courses in: Bloodborne pathogens; body piercing infection control as approved by the Department; American Red Cross First Aid; and adult cardiopulmonary resuscitation (CPR).

B. Applicants for a permit shall submit to the Department a completed application on a form prescribed and furnished by the Department prior to initial permitting and annually thereafter. The application includes both the applicant's oath assuring that the contents of the application are accurate and true, and that the applicant will comply with this regulation. The application shall be signed by the owner(s) if an individual or partnership; in the case of a corporation, by two (2) of its officers. The application shall set forth the full name and address of the facility for which the permit is sought and of the owner in the event his or her address is different from that of the facility, and the name(s) of the person(s) in control of the facility. The Department may require additional information, including affirmative evidence of the applicant's ability to comply with this regulation. Corporations or partnerships shall be registered with the South Carolina Office of the Secretary of State. Other required application information includes:

1. Copy of the business license, as applicable;

2. Permitting fee (see Section 205); and

3. Written agreement with a public fire department arranging for emergency response in case of fire, if applicable (see Section 1401).

#### 203. Compliance

An initial permit shall not be issued to a proposed facility that has not been previously and continuously permitted under Department regulations until the permit holder has demonstrated to the Department that the proposed facility is in substantial compliance with this regulation. In the event a permit holder who already has

a facility or activity licensed or permitted by the Department makes application for another facility, the currently licensed or permitted facility or activity shall be in substantial compliance with the applicable standards prior to the Department issuing a permit to the proposed facility. A copy of this regulation shall be maintained at the facility. Facilities shall comply with applicable local, state, and federal laws, codes, and regulations, to include applicable federal Office of Safety and Health Administration (OSHA) requirements or guidelines.

**204. Issuance and Terms of Permit**

A. A permit is issued by the Department and shall be posted in a conspicuous place in a public area within the facility. (II)

B. The issuance of a permit does not guarantee safety conditions, or the adequacy of sanitation or sterilization procedures provided. (II)

C. A permit is not assignable or transferable and is subject to suspension or revocation at any time by the Department for the permit holder's failure to comply with the laws and regulations of this state. (II)

D. A permit shall be effective for a specified facility, at a specific location(s), for a specified period following the date of issue as determined by the Department. A permit shall remain in effect until the facility is otherwise notified by the Department. (II)

E. Mobile units shall have a permanent mailing address, permits shall indicate that address, and that the facility is mobile. Schedules of mobile unit locations shall be submitted quarterly to the Department.

F. Permitted facilities shall be allowed to continue utilizing the previously-permitted structure without building modification and shall comply with the remainder of the standards within this regulation.

**205. Permitting Fees**

A. Method of Payment. Permitting fees shall be made payable by check, credit card, or money order to the Department.

B. Fees include an initial fee and annual renewal fee of three hundred dollars (\$300.00), and an additional amount may be charged if necessary to cover the cost of inspection.

C. If a permit renewal is denied, a portion of the fee shall be refunded based upon the remaining months of the permitted year.

**206. Permit Renewal**

To renew a permit, applicants shall file an application with the Department and pay a permit fee.

**207. Change of Permit**

A. A facility shall request issuance of an amended permit by application to the Department prior to any change of ownership of the facility.

B. Change of facility location from one geographic site to another shall be by letter or application to the Department in accordance with Section 202. Section 207.B is not applicable to mobile facilities.

C. Changes in a facility name or address as notified by the post office shall be accomplished by application or letter from the permit holder.

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### **208. Exceptions to Permitting Standards**

The Department has the authority to make exceptions to these standards when it is determined that the health, safety, and well-being of the clients will not be compromised and provided the standard is not specifically required by statute.

## **SECTION 300 - ENFORCEMENT OF REGULATIONS**

### **301. General**

The Department shall utilize inspections, investigations, consultations, and other pertinent documentation regarding a proposed or permitted facility in order to enforce this regulation.

### **302. Inspections and Investigations**

A. Inspections shall be conducted prior to initial permitting of a facility. The Department, at its own determination, may also conduct subsequent inspections.

B. All facilities are subject to inspection or investigation at any time without prior notice by legally authorized individuals.

C. Individuals authorized by the Department shall be granted access to all properties and areas, objects, and records at the time of the inspection. If photocopies are made for the Department inspector(s), they shall be used only for purposes of enforcement of regulations and confidentiality shall be maintained except to verify individuals in enforcement action proceedings. Physical area of inspections shall be determined by the extent to which there is potential impact or effect upon clients as determined by the inspector(s). (II)

D. A facility found noncompliant with the standards of this regulation or governing statute shall submit an acceptable written plan of correction to the Department that shall be signed by the administrator and returned by the date specified by the Department. The written plan of correction shall describe: (II)

1. The actions taken to correct each cited deficiency;
2. The actions taken to prevent recurrences, actual and similar; and
3. The actual or expected completion dates of those actions.

E. In accordance with S.C. Code Section 44-32-40, the Department may charge a fee for permitting inspections.

### **303. Probation**

A. The Department may place a facility on probation when it has been determined that the facility has failed to maintain a business address or telephone number at which the facility may be reached during business hours, or violated any other standard of this regulation, as deemed appropriate.

B. The facility shall post the probationary letter from the Department in a conspicuous place in the facility until such time that the Department has determined that sufficient corrective action has been taken.

**SECTION 400 - ENFORCEMENT ACTIONS****401. General (II)**

When the Department determines that a facility is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such facility, the Department, upon proper notice to the permit holder, may deny, refuse to renew, suspend, or revoke permits.

**402. Violation Classifications**

Violations of standards in regulation are classified as follows:

A. Class I violations are those that the Department determines to present an imminent danger to the health, safety, or well-being of persons in the facility or a substantial probability that death or serious physical harm could result therefrom. A physical condition or one or more practices, means, methods or operations in use in a facility may constitute such a violation. The condition or practice constituting a Class I violation shall be abated or eliminated immediately unless a fixed period of time, as stipulated by the Department, is required for correction. Each day such violation exists after expiration of this time may be considered a subsequent violation.

B. Class II violations are those, other than Class I violations, that the Department determines to have a negative impact on the health, safety, or well-being of persons in the facility. The citation of a Class II violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

C. Class III violations are those that are not classified as Class I or II in these regulations or those that are against the best practices as interpreted by the Department. The citation of a Class III violation shall specify the time within which the violation is required to be corrected. Each day such violation exists after expiration of this time may be considered a subsequent violation.

D. Class I and II violations are indicated by notation after each applicable section, as “(I)” or “(II).” Sections not annotated in that manner denote Class III violations. A classification at the beginning of a section and/or subsection applies to all subsections following, unless otherwise indicated.

E. In arriving at a decision to take enforcement action, the Department will consider the following factors: the number and classification of violations, including repeat violations; specific conditions and their impact or potential impact on health, safety, or well-being of the clients; efforts by the facility to correct cited violations; behavior of the permit holder that would reflect negatively on the permit holder's character, such as illegal or illicit activities; overall conditions of the facility; history of compliance; any other pertinent conditions that may be applicable to current statutes and regulations.

**SECTION 500 - POLICIES AND PROCEDURES**

A. Policies and procedures addressing each section of this regulation regarding client procedures or services, rights, infection control, and the operation of the facility shall be developed and implemented by the facility, and revised as appropriate in order to accurately reflect actual facility operation. Facilities shall establish a time-period for review of all policies and procedures. These policies and procedures shall be accessible at all times and a hard copy shall be available or be readily accessible electronically.

B. By its application, the permit holder agrees to comply with all standards of this regulation. The policies and procedures shall describe the means by which the facility shall ensure that the standards described in this regulation are met.

## **200 FINAL REGULATIONS**

C. Each facility shall conspicuously display a clearly legible notice to clients informing them of any disqualification that body piercing may confer upon a prospective blood donor according to the standards of the American Association of Blood Banks. This notice shall also appear in any informed consent or release form which a technician uses, and shall be signed by the prospective client, and contain, at a minimum, aftercare suggestions for the specific piercing site.

### **SECTION 600 - STAFF AND TRAINING**

#### **601. General (II)**

A. Appropriate technicians in numbers and training shall be available at the facility to provide appropriate, safe body piercing procedures to clients and meet the demands of effective emergency on-site action that may arise. Training and qualifications for the tasks each performs shall be in compliance with all professional standards and applicable federal and state laws and regulations.

B. Technicians shall not be under the influence of any drugs, alcohol, or other substance that would impair his or her ability to perform body piercing. (I)

C. All new technicians shall be oriented to acquaint them with the organization and environment of the facility, their specific duties and responsibilities, and client needs.

D. The facility shall maintain accurate current information regarding all technicians of the facility, to include at least address, phone number, health, work, and training background, as well as current health and education information. The facility shall assign duties and responsibilities to all technicians in writing and in accordance with the individual's capability.

#### **602. Administrator**

The permit holder shall designate an individual to serve as administrator. The administrator shall have the authority and responsibility for the overall operation of the facility and is responsible for ensuring compliance with these regulations. An individual shall be designated, in writing, to act in the absence of the administrator. A facility technician may also serve as the administrator.

#### **603. Inservice Training (II)**

A. The following training shall be provided by appropriate resources as approved by the Department to all technicians in the context of their job duties and responsibilities prior to client contact and at a frequency determined by the facility, but at least annually:

1. Adult cardiopulmonary resuscitation (CPR), renewed annually;

2. American Red Cross First Aid certification, American Safety and Health Institute Certification, or certification from a program that meets or exceeds the certification standards of the Red Cross First Aid or the American Safety and Health Institute, required for each technician every three (3) years;

3. OSHA standards in bloodborne pathogens; and

4. Body piercing infection control.

B. Prior to independently performing body piercing procedures, a new technician shall complete a minimum of four hundred (400) training hours under the direct supervision of an experienced technician who shall sign and maintain a statement attesting to the completion of such training.

**604. Health Status (I)**

No person infected with or a carrier of a serious communicable disease, such as tuberculosis, which may be transmitted to clients in the facility, or having boils, open or infected skin lesions shall have client contact.

**SECTION 700 - REPORTING****701. Accidents and/or Incidents (II)**

A. The facility shall report each accident and/or incident resulting in unexpected death or serious injury to the next of kin, responsible party, or emergency contact for each affected individual at the earliest practicable hour, not to exceed twenty-four (24) hours. The permit holder shall notify the Department immediately, not to exceed twenty-four (24) hours, via telephone, email, facsimile, or other method as determined by the Department. The permit holder shall submit a report of the permit holder's investigation of the accident and/or incident to the Department within five (5) calendar days. Accidents and/or incidents requiring reporting include, but are not limited to,:

1. Actual or suspected abuse by technicians;
2. Criminal event against client(s);
3. Those resulting in hospitalization;
4. Severe lacerations; and
5. Severe hematomas.

B. Reports submitted to the Department shall contain only: facility name, permit number, type of accident and/or incident, date accident and/or incident occurred and location, number of clients directly injured or affected, client age and sex, number of staff directly injured or affected, witness(es) name(s), identified cause of accident and/or incident, internal investigation results if cause unknown, a brief description of the accident and/or incident including location where occurred, treatment of injuries, identity of other agencies notified, if applicable, and date of the report. The report retained by the facility, in addition to the minimum reported to the Department, shall contain: name(s) of client(s), staff and/or technicians, the injuries and treatment associated with each client, staff, and/or technician. Records of all accidents and/or incidents shall be retained by the facility for six (6) years after the date of the report.

**702. Fire and Disasters (II)**

The Department shall be notified immediately via telephone, email, facsimile, or other method as determined by the Department regarding any fire in the facility, or natural disaster, which jeopardizes the safety of any persons in the facility, followed by a complete written report, to include fire department reports, if any, to be submitted within a time-period determined by the facility, but not to exceed seventy-two (72) hours from the occurrence of the fire or natural disaster.

**703. Administrator Change**

The Department shall be notified in writing by the permit holder within ten (10) days of any change in administrator. The notice shall include at a minimum the name of the newly-appointed individual and effective date of the appointment.



## **202 FINAL REGULATIONS**

### **704. Facility Closure**

A. Prior to the permanent or temporary closure of a facility, the facility permit holder shall notify the Department in writing of the intent to close and the effective closure date. Within ten (10) days of closure, the facility shall notify the Department of the provisions for the maintenance of the facility records as required by regulation. On the date of permanent closure, the current original permit shall be returned to the Department.

B. In instances where a facility temporarily closes, the permit holder shall notify the Department in writing within fifteen (15) days prior to temporary closure. In the event of temporary closure due to an emergency, the facility shall notify the Department in writing within twenty-four (24) hours of the closure. At a minimum this notification shall include, but not be limited to, the reason for the temporary closure, the manner in which the records are being stored, and the anticipated date for reopening. The Department shall consider, upon appropriate review, the necessity of inspecting and determining the applicability of current construction standards to the facility prior to its reopening. If the facility is closed for a period longer than one (1) year, and there is a desire to reopen, the facility shall reapply to the Department for a permit and shall be subject to all permitting requirements at the time of that application, including construction-related requirements for a new facility.

## **SECTION 800 - CLIENT RECORDS**

### **801. Content (II)**

A. The facility shall initiate and maintain a client record for every individual who has undergone body piercing. The record shall contain sufficient documented information to identify the client and verify the procedure(s) performed. All entries shall be written legibly in ink or typed, signed and dated, and shall identify the author.

B. Specific entries and/or documentation shall include at a minimum:

1. Identification of the client including a means of verification of client's identity, such as a copy of client's photo identification;

2. Explanation of client rights in accordance with Section 1000, as evidenced by the technician's and client's signature, including a clearly legible notice informing him or her of any disqualification which body piercing may confer upon a prospective blood donor in accordance with Section 500.C;

3. Body piercing procedure performed, including the site of the piercing;

4. Procedures followed if an unexpected event occurs, and emergency procedures taken if there is an adverse reaction; and

5. Emergency contact information for the client in case of emergency, including name, address, phone number, and other pertinent contact information.

C. The facility shall provide clients with a release or aftercare note.

### **802. Record Maintenance**

A. The facility shall adequately produce, protect, and store client records.

B. The facility shall determine the medium in which information is stored.

C. The facility shall maintain client records for at least six (6) years following the release of the client. The information shall be readily available to staff as needed and for Department inspections.

**SECTION 900 - CLIENT PROCEDURES AND SERVICES**

**901. General (I)**

A. The facility shall perform body piercing only for those persons for which the facility can provide the appropriate accommodations and services.

B. Body piercing shall be rendered effectively and safely.

C. Body piercing shall not be performed upon a person impaired by drugs or alcohol to the extent that he or she is incapable of consenting to body piercing and incapable of understanding body piercing procedures and aftercare suggestions.

D. Body piercing shall not be performed on skin surfaces having sunburn, rash, keloids, pimples, boils, infections, open lesions, or manifest any evidence of unhealthy conditions.

E. Prior to performing a procedure on a client, the technician shall obtain information from the client regarding any existing condition(s) that could affect the healing process, such as allergies to latex or nickel, or taking medications such as anticoagulants that thin the blood and/or interfere with blood clotting. If a client indicates the presence of such a condition, the facility shall obtain documentation from a physician or other legally authorized healthcare provider that the procedure is not contraindicated, prior to the body piercing procedure.

F. Clients shall be given the opportunity to participate in aftercare programs if offered by the facility. (II)

G. The facility shall provide aftercare recommendations to the client prior to performing body piercing as part of the informed consent process in accordance with Section 1001.C to include but not be limited to:

1. Instructions for care following body piercing procedures;
2. Possible side effects;
3. Restrictions; and
4. Infection control information.

**902. Age Restrictions (II)**

A. The facility shall verify by means of a picture identification that a recipient is at least eighteen (18) years of age.

B. A body piercing technician shall not perform or offer to perform body piercing upon a person under eighteen (18) years of age, unless the body piercing is performed in the presence of, or as directed by a notarized statement by the minor's responsible party, or if the client is emancipated in accordance with state law.

**SECTION 1000 - CLIENT RIGHTS**

**1001. Informed Consent (II)**

A. The facility shall inform the client or responsible party if the client is a minor, of the potential for any risks, and/or adverse effects or consequences regarding the body piercing procedure(s) to be performed. In all instances of body piercing, the client must voluntarily choose, in writing, to receive the procedure.

## **204 FINAL REGULATIONS**

B. The facility shall inform clients of the metal content of jewelry utilized in each procedure and its safety for human implant. Such content shall comply with the American Society for Testing Materials Specifications.

C. The informed consent process shall include, at a minimum:

1. Information relating to disqualification that body piercing may confer upon a prospective blood donor in accordance with Section 500.C; and

2. Aftercare recommendations for the body piercing procedure.

### **1002. Grievances and Complaints (II)**

The facility shall inform the client or responsible party in writing of the grievance procedure should the client consider one or more of his or her rights violated. The facility shall include the address and phone number of the Department in the grievance procedure.

### **1003. Procedures and Charges**

Body piercing procedures performed by the facility and the charges for such procedures shall be stated in writing, and the client, or responsible party if client is a minor, shall be made aware of such charges and procedures as verified by his or her signature, prior to the procedure.

## **SECTION 1100 - MAINTENANCE**

A. A facility shall keep the structure, component parts, amenities, and equipment in good repair and operating condition to perform the functions for which they were designed. (II)

B. The physical plant shall be maintained free of fire hazards or impediments to fire prevention. (I)

## **SECTION 1200 - INFECTION CONTROL AND ENVIRONMENT**

### **1201. Staff Practices (I)**

Staff practices shall promote conditions that prevent the spread of infectious, contagious, or communicable diseases and provide for the proper disposal of toxic and hazardous substances. These preventive measures or practices shall be in compliance with applicable regulations and guidelines of the Occupational Safety and Health Administration (OSHA), for example, the Bloodborne Pathogens Standard; the Centers for Disease Control and Prevention; Regulation 61-105, Infectious Waste Management; and other applicable state, federal, and local laws and regulations.

### **1202. Hepatitis B Vaccination (I)**

A. All technicians shall have the hepatitis B vaccination series unless the vaccine is contraindicated or an individual is offered the series and declines. In either case, the decision shall be documented.

B. Each technician who elects to have the series shall have completed the initial dose of the three (3) dose series within thirty (30) days of employment.

### **1203. Infection Control (I)**

A. A technician shall utilize the following infection control measures:

1. Before and after each body piercing procedure, wash his or her hands thoroughly for a minimum of twenty (20) seconds with water and a liquid germicidal solution approved by the Department, used in accordance with the manufacturer's directions, and dried with single-use disposable paper towels or electric air dryer;

2. When necessary to perform a procedure on certain individuals who must undergo shaving of hair, utilize a single-use disposable razor;

3. The site of the body piercing shall be cleaned in a sterile surgical manner with a liquid germicidal solution approved by the Department and used in accordance with the manufacturer's direction and then swabbed with a disinfectant prior to piercing;

4. Utilize single-use sterile disposable gloves when setting up equipment and performing procedures on a client and immediately replace upon notice of a tear, any contamination, or other defect;

5. Prior to any direct contact with the client, place in a sterile manner all sterile instruments and body piercing items or jewelry on a sterile disposable towel or drape to be used as a single sterile field throughout the procedure;

6. Re-gloving with single-use sterile disposable surgical gloves must occur prior to initiation of the procedure, which is to be performed using strict sterile surgical techniques. Any non-sterile contact or contamination of the instruments, jewelry, or field shall immediately result in cessation of the procedure and nonuse of all equipment until re-sterilized; and

7. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers; these used containers shall be labeled with the Universal Biohazard Symbol and the word "biohazard" and be disposed of in accordance with Regulation 61-105, Infectious Waste Management Regulations.

B. The use of gauze, alum, styptic pencils, or medical supplies deemed necessary to control bleeding is permissible provided that a separate disposable single-use sterile item is used on each client.

C. Food, drink, and the use of tobacco products in the procedure and disinfection or sterilization rooms shall be prohibited.

D. Live animals shall not be permitted in the procedure and disinfection or sterilization rooms.

**EXCEPTION:** This standard does not apply to patrol dogs accompanying security or police officers, guide dogs, or other service animals accompanying individuals with a disability into the procedure room.

#### **1204. Sterilization of Equipment (I)**

A. All used surgical equipment intended for reuse shall be properly scrubbed clean of visible materials and soaked for a minimum of twenty (20) minutes in a liquid germicidal solution approved by the Department, which shall be used in accordance with the manufacturer's direction. The equipment shall then be immediately placed in a mechanical ultrasonic cleanser for at least twenty-five (25) minutes prior to being re-sterilized by autoclave. The ultrasonic cleanser shall be clearly labeled as "biohazardous" and shall be located as far as possible from the autoclave within the disinfection or sterilization room.

B. Facilities shall properly package and sterilize by autoclave those needles, instruments, other surgical equipment, and body piercing items or jewelry that are not single-use or disposable, shall include a sterile indicator, and shall include a label with the date of sterilization.

## **206 FINAL REGULATIONS**

C. A facility utilizing single-use or disposable equipment and/or instruments shall not be required to re-sterilize by autoclave those single-use and/or disposable items provided they are utilized and disposed of in accordance with the manufacturer's directions and not reused in any manner on another client.

D. Single-use items shall not be used on more than one (1) client for any reason unless properly sterilized. After use, all single-use needles, razors, and other sharps shall be immediately disposed of in approved sharps containers.

E. Each facility shall keep a written log for two (2) years of autoclave use, to include, but not be limited to, date and time of use and sterilization spore test strip results conducted at least monthly. (II)

### **1205. Housekeeping (II)**

The interior and exterior of the facility shall be uncluttered, clean, free of safety hazards, and free of vermin and offensive odors.

A. Interior housekeeping of the facility shall, at a minimum, include:

1. Cleaning each specific area of the facility;
2. Cleaning and disinfection, as needed, of equipment and supplies used and/or maintained in each area, appropriate to the area and purpose or use of the equipment or supplies; and
3. Safe storage and use of chemicals indicated as harmful on the product label, cleaning materials, and supplies in cabinets or well-lighted closets and/or rooms, inaccessible to clients.

B. Exterior housekeeping at a facility shall, at a minimum, include:

1. Cleaning of all exterior areas, such as porches and ramps, and removal of safety impediments such as snow or ice; and
2. Keeping the facility grounds reasonably free of weeds, rubbish, overgrown landscaping, and other potential breeding sources of vermin.

### **1206. Refuse Disposal**

A. A facility shall deposit all garbage and refuse in suitable watertight containers. A facility shall dispose of rubbish and garbage in accordance with local requirements.

B. A facility shall cover and store refuse containers outside on an approved platform constructed of concrete, wood, or asphalt and secured in such a manner so as to prevent overturning by animals, the entrance of flies, or the creation of a nuisance. A facility shall thoroughly clean garbage and trash containers as necessary to prevent the creation of a nuisance.

### **1207. Infectious Waste (I)**

Accumulated waste, including all contaminated sharps, dressings, pathological, and/or similar infectious waste, shall be disposed of in a manner compliant with OSHA Bloodborne Pathogens Standards and R.61-105.

**SECTION 1300 - EMERGENCY PROCEDURES****1301. Emergency Call Numbers (I)**

A facility shall post emergency call data in a conspicuous place and shall include at least the telephone numbers of fire and police departments, ambulance service, and the poison control center. Other emergency call information shall be available, to include the names, addresses, and telephone numbers of staff members to be notified in case of emergency.

**1302. Medical Emergencies (I)**

Medical emergencies shall be managed in a manner as to ensure the health, safety, and well-being of clients.

**SECTION 1400 - FIRE PREVENTION AND PROTECTION****1401. Arrangements for Fire Department Response (I)**

Facilities located outside of a service area or range of a public fire department shall arrange by written agreement to have the nearest fire department respond in case of fire. A copy of the agreement shall be kept on file in the facility and a copy shall be forwarded to the Department. If the agreement is changed, a copy shall be forwarded to the Department.

**1402. Inspections (I)**

A facility shall maintain and test fire protection systems in accordance with the applicable provisions of the codes officially adopted by the South Carolina State Fire Marshal.

**1403. Fire Response Training (I)**

A. A facility shall provide fire response training for each technician and staff member within forty-eight (48) hours of his or her first day of employment in the facility and at least annually thereafter. A new facility seeking an initial permit shall provide the Department with evidence of fire response training for each technician and staff member prior to the initial permitting inspection. Fire response training shall address, at a minimum, the following:

1. Fire plan, including the training of staff members and technicians;
2. Reporting a fire;
3. Use of the fire alarm system, if applicable;
4. Location and use of fire-fighting equipment;
5. Methods of fire containment;
6. Specific responsibilities, tasks, and/or duties of each individual; and
7. Fire evacuation plan, including routes and procedures.

B. A facility shall establish a plan for the evacuation of clients, staff members, and technicians, to include procedures and evacuation routes out of the facility, in case of fire or other emergencies, and the plan shall be posted in conspicuous public areas throughout the facility.

## **208 FINAL REGULATIONS**

### **SECTION 1500 - DESIGN AND CONSTRUCTION**

#### **1501. General (II)**

A facility shall be planned, designed, and equipped to provide and promote the health, safety, and well-being of each client.

#### **1502. Adopted Codes and Standards (II)**

Facility design and construction shall comply with applicable provisions of this regulation and the codes officially adopted by the South Carolina Building Codes Council and the South Carolina State Fire Marshal.

### **SECTION 1600 - FACILITY ACCOMMODATIONS**

#### **1601. General (II)**

A. A facility shall include a room for the purpose of disinfecting and sterilization of equipment that shall be physically separate from the room used for body piercing procedures to avoid cross-contamination of equipment. These areas shall be separated from each other and from waiting customers by a door, divider, or wall. A facility shall not store or otherwise keep supplies or equipment not utilized for disinfection or sterilization in this area.

B. Adequate artificial lighting shall be provided in the procedure rooms and disinfection or sterilization rooms.

C. Emergency electrical service shall be provided for procedure room lighting, corridor egress, and exit sign lighting.

#### **1602. Procedure Rooms**

A. The procedure room shall be sized to accommodate necessary equipment or supplies, staff, and procedure table, but not less than sixty-four (64) square feet of floor space, exclusive of fixed cabinets or shelves. The procedure room shall be utilized exclusively for body piercing. Multiple work stations shall be separated by dividers, curtains, walls, or partitions measuring at least four (4) feet in height.

1. Wall and floor surfaces of the procedure and disinfection or sterilization rooms shall be nonporous and easily cleanable.

2. A separate, properly identified sink, with hot and cold running water, used for disinfection practices only shall be located in the disinfection or sterilization room.

B. Procedure tables shall be constructed of a nonporous, sanitizable material.

C. Each procedure room shall have a high efficiency particulate air (HEPA) filter.

#### **1603. First Aid Kit**

A standard first aid kit or equivalent first aid supplies shall be readily accessible in the facility, and shall contain at a minimum:

A. 4" X 4" gauze pads;

B. Benzalkonium swabs;

C. 2" X 2" gauze pads;

D. Gauze roller bandage; and

E. Cardiopulmonary resuscitation (CPR) mouth barrier device.

**1604. Restrooms (II)**

A. There shall be an appropriate number of restrooms in the facility, to accommodate clients, staff, and visitors. The restrooms shall be accessible during all operating hours of the facility.

B. A restroom(s) shall be equipped with at least one (1) toilet fixture, toilet paper installed in a dispenser, a sink equipped with hot and cold running water, liquid or granulated soap, single-use disposable paper towels or electric air dryer, and a covered waste receptacle.

C. Equipment and supplies used in the course of body piercing procedures or disinfection and sterilization procedures shall not be stored or utilized in the restroom(s).

D. There shall be at least one (1) sink for every two (2) toilet fixtures located within a restroom.

E. Privacy shall be provided at toilet fixtures and urinals.

F. Restrooms for persons with disabilities shall be provided as required by local codes whether or not any of the staff or clients are disabled.

G. All restroom floors shall be entirely covered with an approved nonabsorbent covering. Walls shall be nonabsorbent, washable surfaces to the highest level of splash.

**SECTION 1700 - MOBILE UNITS**

All mobile units shall meet the current and existing standards of the state, federal, and local departments of transportation for the permitting and safe operation of the vehicle. In addition, all interior aspects of the vehicle shall meet the same standards as described in this regulation for nonmobile facilities. (II)

**SECTION 1800 - SEVERABILITY**

In the event that any portion of these regulations is construed by a court of competent jurisdiction to be invalid, or otherwise unenforceable, such determination shall in no manner affect the remaining portions of these regulations, and they shall remain in effect, as if such invalid portions were not originally a part of these regulations.

**SECTION 1900 - GENERAL**

Conditions that have not been addressed in these regulations shall be managed in accordance with the best practices as interpreted by the Department.

**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.



## 210 FINAL REGULATIONS

### Statement of Need and Reasonableness:

This Statement of Need and Reasonableness is based on an analysis of the factors listed in 1976 Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-109, *Standards for Permitting Body Piercing Facilities*.

Purpose: The purpose of these amendments to R.61-109 is to update and clarify standards pertaining to body piercing facilities. These amendments provide updates to permitting requirements, accident and/or incident reports, client rights, infection control and sterilization, regulation enforcement, emergency procedures, fire and life safety requirements, and construction design requirements. In addition, provisions have been amended for general clarity, readability, grammar, references, codification and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-32-10, et seq.

Plan for Implementation: Upon approval by the General Assembly and publication in the *State Register* as a final regulation, a copy of Regulation 61-109, which includes these latest amendments, will be available electronically on the Department's Laws and Regulations website under the Health Licensing 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 REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

Pursuant to 1976 Code Section 1-23-120(J), the Department is required to perform a formal review of its regulations every five (5) years and update them if necessary. Regulation 61-109 has not been substantively updated since 2002. Therefore, these amendments are necessary to reflect updates in the applicable statutory authority, and update references to procedures, practices, and definitions that are outdated and/or inapplicable. The amendments further clarify and improve accident and/or incident reporting requirements, client rights, infection control and sterilization, emergency procedures, and fire and life safety requirements.

### 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. Amendments to R.61-109 update and clarify permitting requirements, client rights, accident and/or incident reporting requirements, update emergency procedures and fire and life safety requirements, and clarify infection control and sterilization requirements.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

The amendments to R.61-109 seek to support the Department's goals relating to protection of public health 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. 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 is amending R.61-109 pursuant to the 1976 Code Section 1-23-120(J) requirement that the Department perform a formal review of its regulations every five (5) years and update them if necessary. The amendments update R.61-109 to align with current statutory authority and current industry standards. The amendments address issues regarding permitting requirements, emergency procedures and fire and life safety requirements, accident and/or incident reporting ambiguities, and update infection control and sterilization requirements to current standards.

Document No. 4565

**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

**Synopsis:**

This amendment revises Section 280.25 of R.61-92, *Underground Storage Tank Control Regulations*. In the interest of supporting the Department's goal of protecting the health of the public and the environment, this amendment establishes new conditional requirements for existing facilities to remain in compliance with the provisions of the regulation. Statutory authority for the regulation was also added.

A Notice of Drafting for these proposed amendments was published in the *State Register* on December 26, 2014.

## Section-by-Section Discussion of Amendments:

## SECTION CITATION/EXPLANATION OF CHANGE:

## Statutory Authority.

The statutory authority for this regulation was added in the regulation text under the title and before the table of contents for consistency with other Department regulations.

R.61-92, Section 280.25 Secondary Containment Requirements.

This section was revised to ensure that secondary containment requirements apply to those existing single walled underground storage tank systems that are located within 100 feet of an existing water supply well, a coastal zone critical area, or state navigable waters and meet one of the following conditions: the underground storage tank system has not been upgraded to meet the performance standards as required in Section 280.21 of the regulations or the underground storage tank system has failed to remain in substantial compliance based on the last three consecutive annual inspections. UST systems described in this Section shall meet the secondary containment requirements of Section 280.20(g) or the closure requirements under Subpart G of this Part (including applicable requirements for corrective action under Subpart F), no later than December 22, 2018. The requirements of Section 280.20 (g) shall also apply to any UST system determined to be described by Section 280.25 (a) after December 22, 2018.

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**Instructions:** Amend R.61-92 pursuant to each individual instruction provided with the text of the amendments below.

**Text:**

**Add statutory authority for the regulation under the title and before the table of contents to read:**

**61-92. Underground Storage Tank Control Regulations.**

Statutory Authority: 1976 Code Section 44-2-10 et seq.

**Amend R.61-92.280.25 to read:**

**SECTION 280.25. SECONDARY CONTAINMENT REQUIRED.**

(a) Secondary containment requirements contained in Section 280.20(g) of this regulation shall apply to those UST systems located within 100 feet of an existing water supply well, a coastal zone critical area, or state navigable waters that also meet one of the following conditions:

1. The UST system fails to meet the Section 280.21 upgrading provisions; or

2. The UST system fails to meet the Substantial Compliance criteria found in SC Code Sections 44-2-40(A) and 44-2-50(A) of the SUPERB Act and evaluated in the Department Form (# 1556) based on the last three (3) consecutive annual inspections conducted by the Department.

(b) UST systems described in this Section shall meet the secondary containment requirements of Section 280.20(g) or the closure requirements under Subpart G of this Part (including applicable requirements for corrective action under Subpart F), no later than December 22, 2018. The requirements of Section 280.20(g) shall also apply to any UST system determined to be described by Section 280.25(a) after December 22, 2018.

**Fiscal Impact Statement:**

The regulations will have no substantial fiscal or economic impact on the State or its political subdivisions. Implementation of these regulations 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 these regulations.

**Statement of Need and Reasonableness:**

This Statement of Need and Reasonableness and Rationale was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

**DESCRIPTION OF REGULATION:**

Purpose: The primary goal of R.61-92, Section 280.25 is to ensure that releases from underground storage tanks are minimized, protecting the human health and environment, especially near environmentally sensitive and critical areas, and to 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. Statutory authority for R.61-92 was added for consistency with other Department regulations.

Legal Authority: The legal authority for R.61-92 is 1976 Code Section 44-2-10 et seq.

Plan for Implementation: The 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 REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

This amendment of R.61-92, Section 280.25 is needed to realize the following anticipated benefits:

This amendment of R.61-92, Section 280.25, *Secondary Containment Requirement*, will ensure that releases from underground storage tanks are minimized, protect the human health and environment, especially near environmentally sensitive and critical areas, and will 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.

The above amendment is reasonable to realize the above benefits because it provides 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 its political subdivisions in complying with amendments. The amendment to R.61-92, Section 280.25 will benefit the regulated community by ensuring that releases from underground storage tanks are minimized, protecting the human health and 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.

#### 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 proposed amendment to R.61-92, Section 280.25 will have 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 this amendment.

#### **Statement of Rationale:**

The Department has amended R.61-92, Section 280.25, *Secondary Containment Requirement*, to ensure that releases from underground storage tanks are minimized, protect the human health and environment, especially near environmentally sensitive and critical areas, and to reduce the financial liability on the State Underground Petroleum Environmental Response Bank (SUPERB) Account and the SUPERB Financial Responsibility Fund

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as it pertains to assessment, corrective action, and third party liability claims for petroleum releases from UST systems.

Document No. 4571  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61

Statutory Authority: 1976 Code Section 44-55-40

### 61-71. Well Standards

#### **Synopsis:**

South Carolina Regulation 61-71, Well Standards, was last substantively amended on April 26, 2002. The regulation contains the minimum standards for the construction, maintenance, and operation of the following wells: individual residential, irrigation, monitoring (including non-standard installations), and boreholes to ensure that underground sources of drinking water are not contaminated and public health is protected.

These amendments updated R.61-71 to be consistent with R.61-56, Onsite Wastewater Systems, and clarified that R.61-71 applies to injection wells as specified in R.61-87, Underground Injection Control Regulations. Additionally, stylistic changes were made for clarity and consistency to improve the overall quality of the Regulation.

A Notice of Drafting for these amendments was published in the *State Register* on February 27, 2015.

#### Section-by-Section Discussion of Amendments

#### **61-71. Well Standards.**

The statutory authority citation was moved from below the Table of Contents to the correct location directly under the title of the Regulation for consistency with other Department regulations, and the section symbols were replaced with written text to meet State Register standard for drafting regulations. Symbols do not always convert as intended in other electronic formats and writing them out in text form avoids future software conversion problems. These non-substantive changes improved the overall quality of the regulation.

#### **61-71.A. PURPOSE AND SCOPE**

Text was added that clarifies the applicability of R.61-71 to the construction and abandonment of injection wells as is currently stated in R.61-87, Underground Injection Control Regulations. Additional revisions to the Purpose and Scope provided more complete regulation citations for clarity and made grammatical changes to improve the readability of the text.

#### **61-71.D.1.**

This was a stylistic change to correctly cite the statute for consistency. There is no change in legal meaning.

#### **61-71.D.2.**

This amendment added the title of R.61-81 for clarity and consistency with other cited regulations in R.61-71.

#### **61-71.E. LOCATION OF WELLS.**

Section 61-71.E.1(c) was changed from 50 feet to 75 feet to be consistent with the separation distance between a private well (individual residential and irrigation wells) and an onsite wastewater system (septic tank/tile fields) as required in R.61-56, Onsite Wastewater Systems.

**Instructions:** Amend Regulation 61-71 pursuant to each individual instruction provided with the text of the amendments below.

**Text:**

**Revise Regulation Heading: Move statutory authority following the Table of Contents to directly under the title of the Regulation and replace the section symbols with written text to read:**

**61-71. Well Standards.**

(Statutory Authority: 1976 Code Sections 48-1-10 et seq. and Sections 44-55-10 et seq.)

## TABLE OF CONTENTS

- A. PURPOSE AND SCOPE
- B. DEFINITIONS
- C. VARIANCES
- D. GENERAL
- E. LOCATION OF WELLS
- F. INDIVIDUAL RESIDENTIAL AND IRRIGATION WELLS
- G. BORED INDIVIDUAL RESIDENTIAL AND IRRIGATION WELLS
- H. MONITORING WELLS
- I. BORINGS
- J. GEOTHERMAL SYSTEM WELLS
- K. VIOLATIONS AND PENALTIES
- L. SEVERABILITY

**Revise 61-71.A to read:****A. PURPOSE AND SCOPE.**

These regulations establish minimum standards for the construction, maintenance, and operation of the following wells: individual residential, irrigation, monitoring (including non-standard installations), and boreholes to ensure that underground sources of drinking water are not contaminated and public health is protected. These regulations do not apply to public water wells as those standards are stated in R.61-58, State Primary Drinking Water Regulations. Underground injection of fluids is regulated under R.61-87, Underground Injection Control Regulations. In accordance with R.61-87, the minimum standards for construction and abandonment of injection wells are as stated for all wells in this Regulation. Additional requirements for wells may be found in the following regulations: for injection wells, see R.61-87, Underground Injection Control Regulations; for water wells that produce greater than 3 million gallons in any month, see R.61-113, Groundwater Use and Reporting; for oil and gas exploration and production wells, see R.121-8, Oil and Gas Exploration, Drilling, and Production; and for monitoring and remediation wells at hazardous waste sites, see R.61-79, Hazardous Waste Management Regulations. Permitting requirements for Individual Residential Wells and Irrigation Wells are found in R.61-44, Individual Residential Well and Irrigation Well Permitting.

**Revise 61-71.D.1. to read:**

1. All wells shall be drilled, constructed, and abandoned by a South Carolina certified well driller per S.C. Code Section 40-25-10 et seq.

**Revise 61-71.D.2. to read:**

2. Analytical data submitted to the Department shall be from a South Carolina Certified Laboratory per R.61-81, State Environmental Laboratory Certification Program.

**Revise 61-71.E.1(c) to read:**

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(c) Septic tank/tile fields.....75 feet

**Fiscal Impact Statement:**

The revised regulation 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:**

The following is based on an analysis of the factors listed in 1976 Code Section 1-23-115(C)(1)-(3) and (9) through (11):

**DESCRIPTION OF REGULATION:**

Purpose: The amendments update R.61-71 to be consistent with separation distance requirements for private wells and onsite wastewater systems in R.61-56, Onsite Wastewater Systems and clarify the applicability of R.61-71 to injection wells as specified in R.61-87, Underground Injection Control Regulations. Additionally, stylistic changes were made for clarity and consistency to improve the overall quality of the Regulation.

Legal Authority: 1976 Code Section 44-55-40.

Plan for Implementation: The amendments will be incorporated within Regulation 61-71 upon approval by the General Assembly and publication as final regulations in the State Register. Regulation 61-71, to include these latest amendments, will be published on the Department’s Laws and Regulations website and will subsequently be incorporated into Regulation 61-71 in the S.C. Code of Regulations. The amendments will be implemented in the same manner in which the current regulation is implemented.

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

The adoption of these amendments is needed and reasonable because they provide clarification regarding applicability and eliminate any potential inconsistency between Department regulations.

**DETERMINATION OF COSTS AND BENEFITS:**

Internal Costs: Implementation of these amendments will not require additional resources. There is no anticipated additional cost by the Department or State government due to any inherent requirements of these amendments.

External Costs: There are no anticipated external costs for implementing these amendments to clarify the applicability of R.61-71 to injection wells as currently stated in R.61-87. A 75-foot separation between onsite wastewater systems and private wells is required by R.61-56. Consequently, minimal external costs are anticipated for making this regulation consistent with R.61-56.

External Benefits: These amendments affect those who install private wells and injection wells. The amendments eliminate inconsistencies between regulations and provide clarification regarding the applicability of the regulation.

**UNCERTAINTIES OF ESTIMATES:**

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The amendments will have no anticipated effect on the environment.

The amendments seek to benefit human health by increasing the separation distance between private wells and onsite wastewater systems (septic tanks/tile fields).

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, owners of private wells will not benefit from the increased separation distance between their wells and onsite wastewater systems.

**Statement of Rationale:**

The Department amended this regulation in the interest of consistency with the requirements for the separation between private wells and onsite wastewater systems listed in R.61-56, Onsite Wastewater Systems, and to provide clarification regarding applicability of the regulation to injection wells as specified in R.61-87, Underground Injection Control Regulations.

Document No. 4601  
**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

17-51. Minimum Requirements for Licensing of Cosmetologists as Master Hair Care Specialists

**Synopsis:**

The South Carolina Board of Barber Examiners proposes to amend regulations regarding requirements for a crossover license.

A Notice of Drafting was published on August 28, 2015 in the *State Register*.

**Instructions:**

Regulation 17-51 is amended as shown below.

**Text:**

17-51. Minimum Requirements for Licensing of Cosmetologists as Master Hair Care Specialists.

1. The Board will issue master hair care specialist licenses to those licensed as cosmetologists by the South Carolina State Board of Cosmetology who submit a completed application with the application fee, proof of a current South Carolina cosmetologist license, and proof of a passing score on all portions of the practical examination prescribed by the Board along with the total number of years' experience and training prescribed hereunder.

2. Any licensed cosmetologist with fewer than two (2) years' experience must have three hundred seventy-five (375) hours of barber school training approved by the Board.



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3. Any applicant failing any portion of the examination must complete fifty (50) hours of training in each portion failed in a Board approved barber school prior to reapplying and retaking the portion(s) of the examination failed.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulation will comport with the Board of Barber Examiners Practice Act.

Document No. 4573  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF DENTISTRY**  
CHAPTER 39  
Statutory Authority: 1976 Code Sections 40-1-70 and 40-15-40

39-5. Registration of Licenses or Certificates

39-10. Sanitary Standards

### **Synopsis:**

The South Carolina Board of Dentistry amends Regulations 39-5 and 39-10 to comport with federal infection control standards.

A Notice of Drafting was published on May 22, 2015 in the *State Register*.

### **Instructions:**

Regulations 39-5 and 39-10 are amended as shown below.

### **Text:**

39-5. Registration of Licenses or Certificates.

A. Every licensed dentist or dental hygienist and every registered technician shall keep the Board informed of their current mailing address.

B. The Board will notify any dentist, dental hygienist or technician of the expiration of his/her license or certificate.

C. Any person whose license or certificate has expired and who wishes to have the same reinstated must notify the Board of this in writing. Such notification must set forth the reasons for seeking to have the same reinstated and the reasons why the same has expired. Thereafter the Board may require a reexamination of the person whose license or certificate has expired or may require the person to appear before the Board and explain why the license or certificate has expired.

D. In Section 40-15-170 of the Code of Laws of South Carolina, 1976, there is a requirement that affects your license: "The license of a dentist or dental hygienist who does not either reside or practice in South Carolina for a period of six successive years shall be deemed inactive. Provided, that the time spent in active service by any person in the armed forces or public health service of the United States or with the Veterans' Administration shall not be construed as absence from or failure to practice in the State. Relicensing after an absence of over six years can be made at the discretion of the Board upon proof of high professional fitness and moral character."

E. Relicensing can be made at the discretion of the Board upon proof of high professional fitness and moral character.

F. Each licensed dentist, licensed dental hygienist and registered dental technician shall complete as a requirement for relicensure the following accredited continuing education on a two-year continuous cycle basis. The licensee/registrant shall certify on the relicensure/registration form that he/she has taken and can verify the required number of hours specified below. Verification shall be in the form of a record of courses taken, continuing hours earned, the date, sponsor and subject matter of the courses. This material shall be maintained for a period of three years from the date of verification to the Board upon licensure/reregistration and, upon request of the State Board or its representative, the licensee/registrant shall provide documentation in the form of certificates or attendance or letters from course sponsors as proof of attendance.

(1) All dentists shall complete a minimum of fourteen (14) continuing education hours per year or twenty-eight (28) continuing education hours over two (2) years; dental hygienists shall complete a minimum of seven (7) continuing education hours per year or fourteen (14) over two (2) years; dental technicians shall complete a minimum of four (4) continuing education hours per year or eight (8) continuing education hours over two (2) years, in order to be eligible for relicensure or reregistration. Upon licensure by examination of this State, dentists, dental hygienists and dental technicians shall be exempt from continuing education requirements for the first relicensure period.

(a) All licensed dentists and dental hygienists must have at least two (2) hours of their required continuing education be dedicated to sterilization and infection control.

(b) It is the responsibility of all dentists to ensure that their auxiliary staff who may be exposed to blood and other body fluids require and provide two (2) hours biennially of continuing education on sterilization and infection control and maintain records of such training.

(2) The continuing education hours must be courses related to the procedures approved for each licensee/registrant such as

- (a) medical and scientific subjects;
- (b) clinical and technical subjects;
- (c) risk management and infection control;
- (d) dental radiology;
- (e) CPR, diet and nutrition.

(3) All dentists and dental hygienists must have completed an approved CPR course within three (3) years of licensure or renewal. Thereafter, all dentists and dental hygienists must be recertified in CPR once every three years. Yearly recertification is not required, but can be used as continuing education hours any time.

(4) Programs that meet the general requirement of Section 2 may be developed and/or endorsed by organizations and agencies such as:

(a) the American Dental Association, Academy of General Dentistry, American Dental Hygienists' Association, American Dental Assistants' Association, National Association of Dental Laboratories, or their local societies and associations;

(b) national, state, local, district dental specialty organizations recognized by the American Dental Association;

(c) dental colleges or schools accredited by the American Dental Association;

(d) other organizations, schools, and agencies approved by the State Board of Dentistry.

(5) Each dentist, dental hygienist and dental technician licensed/registered by the Board who is not exempt from this regulation, at the time of filing his application for renewal of his license/registration, shall certify on the reregistration form that he/she has taken and can verify the required number of hours. A record of the courses taken, continuing education hours earned, date, sponsor, and subject matter shall be retained for a minimum of three (3) years from the date of attendance. Upon request, the applicant shall provide documentation in the form of certificates of attendance or letters from course sponsors, to the Board as proof of attendance.

(6) Failure to comply with this mandatory continuing education requirement may result in disciplinary action by the Board against the applicant.

(7) In individual cases involving extraordinary hardship or extenuating circumstances, disability or illness, all or any part of the requirements may be waived, modified or extended by the Board. Any applicant shall be eligible for waiver or extension who, upon written application to the Board and for good cause shown,

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demonstrates that they are unable to participate in a sufficient number of regular continuing educational programs for licensure/registration.

(8) The Board shall have the authority to decide if a course meets its accreditation criterion, if a question arises.

### 39-10. Sanitary Standards.

A. All dental offices and dental laboratories shall provide and maintain sanitary facilities and conditions in accordance with the following regulations:

(1) All dental practices shall conform to and comply with the current recommendations and guidelines of the Centers for Disease Control and Prevention (C.D.C.) relating to infection control practices for dentistry and/or dental offices.

(2) It is the responsibility of all dentists and dental hygienists licensed by the State and all other personnel who are utilized by a licensed dentist and who assist in a dental practice and may be exposed to body fluids such as blood or saliva to maintain familiarity with these recommendations and guidelines.

(3) Premises:

(a) The premises shall be kept neat and clean, and free of accumulated rubbish and substances of a similar nature which create a public health nuisance.

(b) The premises shall be kept free of all insects and vermin. Proper methods for their eradication or control shall be utilized.

(c) Water of a safe, sanitary quality, from a source approved by the health officer, shall be piped under pressure and in an approved manner, to all equipment and fixtures where the use of water is required.

(d) All plumbing shall be in accordance with the local plumbing ordinances.

(4) Housekeeping:

(a) Comfortable and sanitary conditions for patients and employees shall be maintained constantly.

(b) All liquid and human waste, including floor wash water, shall be disposed of through trapped drains into a public sanitary sewer system in localities where such system is available. In localities where a public sanitary system is not available, liquid and human waste shall be disposed of through trapped drains in a manner approved by the health officer.

(5) Toilet Facilities:

(a) There shall be adequate toilet facilities on the premises of every dental office. They shall conform to standards of the State Board of Health.

(6) Sterilization:

(a) All instruments or equipment used in the treatment of dental patients shall be sterilized according to usage, i.e., autoclave, boiling water sterilization, or cold sterilizer solutions as indicated.

(b) Each facility shall ensure compliance by all personnel with existing federal and state infection control procedures.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

These regulations are amended to comport with federal infection control standards.

Document No. 4626  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF DENTISTRY**  
CHAPTER 39

Statutory Authority: 1976 Code Sections 40-1-50(D), 40-1-70, and 40-15-40(G)

39-17. Guidelines for Sedation and General Anesthesia.

**Synopsis:**

The South Carolina Board of Dentistry proposes to amend regulations regarding dental sedation permits and to add a fee for the dental sedation permit, established by 2014 Act 222, known as the Dental Sedation Act, which is effective January 1, 2015. S.C. Code §40-15-40(G) mandates that the Board establish a fee for this permit.

A Notice of Drafting was published in the *State Register* on May 22, 2015.

**Instructions:**

Regulation 39-17 is amended as shown below.

**Text:**

39-17. Guidelines for Sedation and General Anesthesia.

A. Definitions.

1. "Analgesia" means the diminution or elimination of pain with full consciousness maintained by the patient.

2. "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. Reflex withdrawal from a painful stimulus is not considered a purposeful response. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining patients' airways. Spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

3. "Enteral" means a route of administration that includes any technique in which the agent is absorbed through the gastrointestinal tract or oral mucosa.

4. "General anesthesia" means a drug-induced loss of consciousness during which patients are not aroused, even by painful stimulation. The ability to independently maintain ventilator functions is often impaired. Patients often require assistance in maintaining patients' airways; positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.

5. "Inhalation" means a route of administration in which a gaseous or volatile agent is introduced into the lungs and whose primary effect is due to absorption through the interface of gas and blood.

6. "Local anesthesia" means the elimination of sensation, especially pain, in one part of the body by the topical application or regional as applies to dental, oral, or maxillofacial injection of a drug.

7. "Minimal sedation" means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and to respond appropriately to physical stimulation or verbal command.

8. "Moderate sedation" means a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patient airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained.

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9. “Nitrous oxide analgesia or sedation” means the administration by inhalation of a combination of nitrous oxide and oxygen producing an altered level of consciousness that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

10. “Parenteral” means a route of administration in which the drug bypasses the gastrointestinal tract.

### B. Education and Training Requirements for Practicing Sedation.

1. To provide moderate enteral sedation, applicable programs, pursuant to S.C. Code §40-15-400(C)(1), must be accredited by The American Dental Association and its Commission of Dental Accreditation.

2. To provide moderate parenteral sedation, applicable programs, pursuant to S.C. Code § 40-15-400(D)(1), must be accredited by The American Dental Association and its Commission of Dental Accreditation.

3. To provide deep sedation/general anesthesia, applicable programs, pursuant to S.C. Code § 40-15-400(E)(1), must be accredited by The American Dental Association and its Commission of Dental Accreditation.

4. Residency programs, pursuant to S.C. Code § 40-15-400(F) must be accredited by The American Dental Association and its Commission of Dental Accreditation.

C. For purposes of these regulations, the administration of sedation and/or anesthesia by or under the direction of a licensed dentist in this state, except in the event that the sedation and/or anesthesia is administered by a licensed CRNA or anesthesiologist, shall be performed in accordance with the laws and regulations of this State, applicable guidelines approved by the Board, including but not limited to, current American Dental Association (ADA) “Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists” and current American Academy of Pediatric Dentistry (AAPD) “Guidelines for the Elective Use of Pharmacologic Conscious Sedation and Deep Sedation in Pediatric Dental Patients.”

D. A licensed dentist in this state shall be solely responsible for the administration and management of sedation and/or anesthesia in the practice of dentistry, including but not limited to ordering, supplying, and prescribing medications used in the sedation procedure, and must determine which of the guidelines, as referenced above, he or she shall operate under, and shall be responsible for complying with the same, as provided above.

E. In procedures utilizing a CRNA or an anesthesiologist, the administration of sedation and/or anesthesia shall be in accordance with South Carolina law.

F. Dentists who have qualified to administer sedation and/or anesthesia under these regulations are subject to review and audit, and their facilities subject to on-site inspection by an official designee of the Board to determine compliance with these regulations every two years.

G. Reporting of Adverse Occurrences - A licensed dentist must submit a written report within thirty (30) days to the Board regarding any known mortality or serious, unusual incident which occurs in a dental facility or during the twenty-four (24) hour period after the patient leaves the facility, if the incident produces significant temporary or permanent physical or mental injury of the patient as a direct result of the administration of the general anesthesia or sedation.

H. Nitrous Oxide/Oxygen. For purposes of these regulations, a licensed dentist in this state shall be solely responsible for the administration and management of nitrous oxide/oxygen in the practice of dentistry, and adequacy of the facility, including equipment with fail-safe features that prohibit the delivery of less than thirty (30%) percent minimum oxygen flow. Dental offices are subject to inspection and audit to determine compliance with these regulations.

I. Permit Fees for all dentists performing sedation and general anesthesia; on-site inspections.

Any dentist practicing or seeking to practice moderate and/or deep sedation/general anesthesia must obtain the appropriate permit.

1. Moderate sedation permit: \$200 biennially.

2. Deep sedation/general anesthesia permit: \$200 biennially. A dentist with a deep sedation/general anesthesia permit may also perform moderate sedation without obtaining an additional permit.

3. Permit fees are renewed biennially with a dental license renewal.

4. New applicants for sedation permits must have an on-site inspection of each facility where permitted sedation will occur before beginning sedation procedures that require a permit. Dentists with a current license who have been practicing moderate or deep sedation/general anesthesia prior to the effective date of these regulations may continue to so practice during the pendency of their application and inspection process.

5. Dentists applying for permits under this section must list each and every location at which they will practice sedation that requires a permit and must update the Board within thirty (30) days of any change in

location at which they will practice permitted sedation. Each facility where permitted sedation occurs must be equipped as required to provide the level of sedation being administered in that facility, and will be inspected.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The South Carolina Board of Dentistry proposes to amend regulation regarding dental sedation permits and to add a fee for the dental sedation permit, established by 2014 Act 222, known as the Dental Sedation Act, which is effective January 1, 2015. S.C. Code §40-15-40(G) mandates that the Board establish a fee for this permit.

Document No. 4592  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**PANEL FOR DIETETICS**  
CHAPTER 40  
Statutory Authority: 1976 Code Sections 40-1-70, 40-20-50 and 40-20-80

40-8. Continuing Competency; Continuing Education Credits.

**Synopsis:**

Regulation 40-8 is amended to comport with national standards per the Commission on Dietetic Registration.

The Notice of Drafting was published in the *State Register* on May 22, 2015.

**Instructions:**

Regulation 40-8 is amended as shown below.

**Text:**

40-8. Continuing Competency; Continuing Education Credits.

(A) Persons licensed to practice dietetics are required to demonstrate continuing professional competency. Licensee shall submit a continuing education report on a form approved by the panel as a condition of renewal.

(B) Each applicant for a renewal of a license shall demonstrate compliance with the continuing education requirements of the Commission on Dietetic Registration.

(C) Evidence of continuing professional education units shall include a certificate of attendance signed by program provider or designee; the number of continuing professional education units requested; titles of presentations; speakers' or instructors' qualifications; timing outlines; application of learning; and other documentation as the panel may require.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

This regulation is updated in conformance with national standards for continuing education.

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Document No. 4627

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF REGISTRATION FOR FORESTERS  
CHAPTER 53**

Statutory Authority: 1976 Code Sections 40-1-70 and 48-27-80

53-16. Fees for Registration and Renewal.

**Synopsis:**

The South Carolina State Board of Registration for Foresters proposes to amend its fee schedule in Regulation 53-16.

A Notice of Drafting was published in the *State Register* on September 25, 2015.

**Instructions:**

Regulation 53-16 is amended as shown below.

**Text:**

53-16. Licensure Fees.

The Board's fees are as follows:

(1) Application	\$ 50.00
(2) Registration (biennial)	\$130.00
(3) Initial License (including application and licensure fee)	\$180.00
(4) Biennial renewal	\$130.00
(5) Late fee (after June 30 through September 30)	\$ 50.00
(6) Reinstatement	\$100.00 + past renewal fees and late fees
(7) Examination fee (payable to Society of American Foresters)	\$325.00
(8) Licensee list (Diskette/CD)	\$ 10.00
(9) Duplicate license/wallet card	\$ 3.00
(10) License verification	\$ 5.00
(11) Name or address change with new license card issued	\$ 3.00

There is no charge for address or name changes made to the Board's record only.

Initial registration fees are prorated for applications received after April 1st of the year prior to renewal (even years, 2016, 2018, etc.) and approved by the Board. The prorated fee is \$65.00.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The updated regulation will allow the Department, on behalf of the Board of Registration for Foresters, to ensure there is sufficient, but not excessive, revenue to cover expenses for the Board's operations in compliance with Section 40-1-50(D).

Document No. 4588

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF MEDICAL EXAMINERS**  
 CHAPTER 81

Statutory Authority: 1976 Code Sections 40-1-70, 40-47-10 and 40-47-110

**Synopsis:**

The South Carolina Board of Medical Examiners proposes to amend its regulations to safeguard patient medical records when a physician licensee is incapacitated, disappears, or dies.

The Notice of Drafting was published in the *State Register* on May 22, 2015. The Proposed regulation was published in the *State Register* on September 25, 2015.

**Instructions:**

Add Article 1, Safeguarding Patient Records as shown below.

**Text:**

## ARTICLE 1

## SAFEGUARDING PATIENT RECORDS

## 81-1. Safeguarding Patient Medical Records When a Physician Licensee is Incapacitated, Disappears, or Dies.

(A) Each physician licensee actively practicing within the State of South Carolina shall designate a partner, personal representative, or other responsible party to assume responsibility for patient medical records in the case of incapacity, death or disappearance of the licensee, including any circumstances whereby the licensee is unable for any reason to provide continuity of care, appropriate referral or patient medical records upon a valid request of the patient. Each physician licensee must affirm that he or she has read and understands this obligation upon application for initial licensure and application for renewal of licensure.

(B) Where the physician licensee is incapacitated, disappears, or dies, and no responsible party is known to exist, the Administrator of the Board of Medical Examiners may petition the President of the Board for an order appointing another licensee or licensees to take custody of, inventory, and disperse the medical records to patients or other authorized parties in accordance with the Physician Patient Records Act and to take all other actions as appropriate to protect the interests of the clients. The Order of Appointment shall be a public document.

(C) The appointed licensee shall:

- (1) Take custody of and safeguard the physician licensee's available and accessible medical records;
- (2) Notify each patient at the patient's address shown in the file, by first class mail, of the patient's right to obtain his or her medical records to which the patient is entitled and the time and place at which the medical records may be obtained;
- (3) Post a notice in a conspicuous location at the impaired or unavailable licensee's last known business address advising the time and place at which patient medical records may be obtained;
- (4) Publish, in a newspaper of general circulation in the county or counties in which the licensee resided or engaged in any substantial practice, once a week for three consecutive weeks, and notice of the discontinuance or interruption of the physician's practice. The notice shall include the name and address of the licensee whose practice has been discontinued or interrupted; the time, date and location where patients may obtain their medical records; and the name, address and telephone number of the appointed licensee. The notice shall also be mailed, by first class mail, to any malpractice insurer or other entity having reason to be informed of the discontinuance or interruption of the medical practice;



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(5) Release to each patient the records to which the patient is entitled unless release directly to the patient is expressly prohibited by state or federal law. The appointed licensee shall obtain a receipt from the patient for the medical records before releasing the medical records. In the event the release of medical records directly to the patient is prohibited by state or federal law, the appointed licensee may release the records to an appropriate licensed healthcare provider, healthcare facility or patient's representative upon receipt of authorization to release from the patient, patient's representative or a court of law and shall obtain a receipt from the receiving party prior to the release of the records;

(6) Perform any other acts directed in the Order of Appointment; and

(7) The appointed licensee may seek reimbursement for reasonable expenses incurred pursuant to the discharge of duties imposed by the Order of Appointment from the assets or estate of the incapacitated, unavailable or deceased physician licensee.

(D) The appointed licensee shall petition the Board President for authorization to dispose of unclaimed records no sooner than 1 year from the Order of Appointment's execution.

(E) When the appointed licensee has complied with the provisions of this regulation, he or she may petition the Administrator of the Board for termination of the Order of Appointment by the Board President.

(F) Neither the appointed licensee nor any other person or entity appointed to assist the appointed licensee shall disclose any information contained in the patient records without the consent of the patient or the patient's duly authorized representative, except as necessary to carry out the Order of Appointment.

(G) Neither the appointed licensee nor any other person or entity appointed to assist the appointed licensee shall be responsible for reviewing the content of the medical records or ensuring compliance with any records retention policy set forth in either state or federal law.

(H) While acting pursuant to the Order of Appointment, the appointed licensee and any other person or entity appointed to assist the appointed licensee shall be considered an extension and agent of the South Carolina Board of Medical Examiners.

(I) The term of an Order of Appointment shall be for a period of no longer than 12 months. Upon application by the appointed licensee, the Board President may extend the term of the order as necessary.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulation will safeguard patient medical records when a physician licensee is incapacitated, disappears, or dies.

Document No. 4574

### **DEPARTMENT OF LABOR, LICENSING AND REGULATION COMMISSIONERS OF PILOTAGE**

#### **CHAPTER 136**

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 54-15-10, and 54-15-140

136-030. Pilot Registration

136-730. Pilot Registration

### **Synopsis:**

The South Carolina Commissioners on Pilotage propose to amend Regulation 136-030 for the Lower Coastal Area and amend Regulation 136-730 for the Upper Coastal Area regarding the physical examination requirements for pilots.

A Notice of Drafting was published in the *State Register* on May 22, 2015.

**Instructions:**

Regulations 136-030 and 136-070 are amended as shown below.

**Text:**

## 136-030. Pilot Registration.

A. The minimum number of full branch pilots for the Lower Coastal Area shall be established by the Commissioners to be sufficient to handle the number of vessels requiring pilot services. The Commissioners for the Lower Coastal Area may authorize a number of short branch pilots in addition to the number established for full branch pilots.

B. In developing the minimum number of pilots necessary, the Commissioners shall consider the average annual number of vessel movements, including both federal and state pilotage, handled by each full branch pilot for each of the previous five years. They shall also consider the average amount of pilot time required per average movement.

C. The Commissioners shall adopt procedures for monitoring increases and decreases in workload to assure that an adequate number of full branch pilot positions are established to efficiently handle the workload. The Commissioners shall further consider the recommendations of the pilots relative to developing the number of pilots required.

D. Every pilot being registered shall have a thorough physical examination every year. An individual's registration remains valid through the end of the month in which the first anniversary of the most recent satisfactory physical examination occurs. If invalidated by expiration of the previous physical, registration is restored once a satisfactory physical examination has been completed, without further action by the Commission or other authority. Pilots holding and maintaining a Medical Certificate for a First Class Pilot issued by the United States Coast Guard are deemed medically fit to perform the duties of a State Registered Pilot. Annual physicals will be recorded on a form approved by the Commissioners that is: (a) signed by an appropriately licensed physician; (b) signed by the applicant attesting to the status as of that date of his or her Coast Guard Medical Certificate; and (c) submitted within 30 days of the completion of the physical. Pilots not holding a current Medical Certificate issued by the United States Coast Guard for a First Class Pilot may petition the Commissioners for a determination of medical fitness by alternate means.

## 136-730. Pilot Registration.

A. The maximum number of pilots for the Upper Coastal Area is limited to three (3), and may be increased by the Commissioners of Pilotage for the Upper Coastal Area to five (5). The minimum number of Full Branch pilots for the Upper Coastal Area shall be established by the Commissioners to be sufficient to handle the number of vessels requiring pilot services, in accordance with Section 54-15-130 of the 1976 South Carolina Code, as amended. The Commissioners for the Upper Coastal Area may authorize a number of Short Branch pilots in addition to the number established for Full Branch pilots.

B. Every pilot being registered shall have a thorough physical examination every year. An individual's registration remains valid through the end of the month in which the first anniversary of the most recent satisfactory physical examination occurs. If invalidated by expiration of the previous physical, registration is restored once a satisfactory physical examination has been completed, without further action by the Commission or other authority. Pilots holding and maintaining a Medical Certificate for a First Class Pilot issued by the United States Coast Guard are deemed medically fit to perform the duties of a State Registered Pilot. Annual physicals will be recorded on a form approved by the Commissioners that is: (a) signed by an appropriately licensed physician; (b) signed by the applicant attesting to the status as of that date of his or her Coast Guard Medical Certificate; and (c) submitted within 30 days of the completion of the physical. Pilots not holding a current Medical Certificate issued by the United States Coast Guard for a First Class Pilot may petition the Commissioners for a determination of medical fitness by alternate means.

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### Fiscal Impact Statement:

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

### Statement of Rationale:

These regulations are amended to change the requirements for physical examinations.

Document No. 4589  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**REAL ESTATE APPRAISERS BOARD**  
CHAPTER 137  
Statutory Authority: 1976 Code Sections 40-1-70 and 40-60-10(I)(3)

137-100.06. Nonresidential Appraisal Categories.  
137-100.07. Other Appraisal Experience.  
137-200.04. Mass Appraisal Experience Verification.  
137-300.01. Responsibilities of an Apprentice Appraiser.  
137-300.02. Responsibilities of a Supervising Appraiser.  
137-500.01. Continuing Education.  
137-800.01. Payment of Fees.  
137-800.03. Biennial Fee Schedule.  
137-800.05. Expired Permit, License or Certificate.  
137-900.05. Curriculum and Attendance.

### Synopsis:

The South Carolina Real Estate Appraisers Board proposes to amend its regulations regarding continuing education, payment of fees, appraisal experience, appraiser apprentice requirements, and to make editorial changes.

The Notice of Drafting was published in the *State Register* on August 28, 2015. The Proposed regulation was published in the *State Register* on September 25, 2015.

### Instructions:

Regulations 137-100.6 through 137-900.05 are amended as shown below.

### Text:

137-100.06 Nonresidential Appraisal Categories.

The following categories pertain to various forms of appraiser involvement and the point values which may be awarded by the Board when evaluating nonresidential appraisal experience:

Type of Appraisal	Points Assigned
A. Sole Appraiser--refers to appraisal reports which were completed and signed by only one person.	1.0
B. Co-Appraiser--refers to appraisal reports in which more than one appraiser worked on the report. To qualify for this category, applicants must have performed more than fifty percent (50%) of the work on an appraisal. Applicants	.75

may receive experience credit for the appraisal even if this work was reviewed by a supervising appraiser who signed the appraisal report. However, in those instances where an applicant has not signed an appraisal report and claims experience credit, the applicant must submit with the application a written statement from the supervising appraiser which verifies that the applicant performed more than fifty percent (50%) of the work on specified appraisal assignments.

C. Field Review--refers to a review of an appraisal. In order to qualify for field review experience credit, the applicant must have conducted a physical inspection of the property, as well as verified the data and checked the calculations contained in the appraisal under review. In addition, in order to qualify for experience credit in this category, an applicant must have prepared a written report recommending the acceptance, revision, or rejection of the appraisal under review. .50

D. Documentary or Desk Review - refers to a review of an appraisal performed by another person but does not require a physical inspection of the subject property. In order to qualify for experience credit in this category, an applicant must have thoroughly and critically reviewed all portions of the appraisal report and recommended the acceptance, revision, or rejection of the appraisal under review. .25

E. Condemnation Partial Acquisition - refers to appraisals performed on properties involved in condemnation proceedings. In order to qualify for experience credit in this category, a partial acquisition appraisal must be performed and an evaluation of both the before and after value must be given. A total acquisition under condemnation proceedings would not fall under this category. 1.25

137-100.07. Other Appraisal Experience.

(A) Applicants may receive credit for appraisals of other types of real property not listed in these Regulations. The Board may, on an individual basis, determine the amount of credit to be awarded for such appraisals based on information provided to the Board by the applicant.

(B) Experience credit may be awarded for mass appraisal activity provided such activity is in compliance with the standards set forth in the Uniform Standards of Professional Appraisal Practice. However, the maximum number of experience points an applicant will be awarded for mass appraisal activity is forty percent (40%).

(C) Mass appraisal experience will not be awarded for activity performed by individuals commonly referred to as "listers." The duties these individuals perform are typically limited to the location of real property, measurement of improvements relative to such things as number of bedrooms and bathrooms, siding, decks, or other miscellaneous information. Such activity does not, in and of itself, apply the methods and techniques utilized in the appraisal process and consequently will not be credited as appraisal experience.

(D) Duties performed by listers are not considered regulated appraisal activity and therefore listers are not required to become licensed or certified under the South Carolina Real Estate Appraiser License and Certification Act.

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### 137-200.04. Mass Appraisal Experience Verification.

Persons claiming mass appraisal experience must provide a statement of verification of the experience claimed. This verification should be completed by the applicant's supervisor or employer where the mass appraisal experience was required. The experience claimed by the applicant must be reported on a log in compliance with 137-300.01(A)(3).

### 137-300.01. Responsibilities of an Apprentice Appraiser.

(A) The holder of an apprentice appraiser permit issued by the Board must comply with the following:

(1) The apprentice shall perform appraisal assignments only under the direct supervision of a state certified residential or state certified general real estate appraiser.

(2) The apprentice and supervisor are required to complete a course that is oriented toward the requirements and responsibilities of supervisory appraisers and expectations for trainee appraisers prior to obtaining an apprentice credential.

(3) The apprentice shall maintain a log which shall contain the following for each appraisal assignment:

(a) Date of appraisal.

(b) Address of appraised property.

(c) Description of work performed by the apprentice and scope of the review and supervision of the supervising appraiser.

(d) Type of property.

(e) Number of points and actual hours by the apprentice on the assignment.

(f) Name, signature and certification number of supervising appraiser.

(4) The apprentice shall maintain copies or have access to all appraisals.

(5) The apprentice shall make the log and all appraisals available at all times for inspection by the Board.

(6) When performing appraisal assignments, the apprentice shall have in his or her possession the permit issued by the Board.

(7) The apprentice is eligible to take the appraisal licensing or certification examinations after completing the requisite Board-approved AQB Core Curriculum and experience required for the Licensed or Certified appraiser classification.

### 137-300.02. Responsibilities of a Supervising Appraiser.

(A) With respect to an apprentice appraiser employed or retained by or associated with a state certified appraiser:

(1) For purposes of this section, "direct supervision" means to personally review an appraisal report prepared by an apprentice and to sign and certify the report as being independently and impartially prepared and in compliance with the Uniform Standards of Professional Appraisal Practice, these regulations, and applicable statutory requirements.

(2) A state certified appraiser having direct supervisory authority over the apprentice appraiser shall make reasonable efforts to ensure that the apprentice's conduct is compatible with the professional standards of the supervising appraiser.

(3) A supervising appraiser shall be responsible for conduct of an apprentice appraiser that would be a violation of the Uniform Standards of Professional Appraisal Practice if:

(a) the supervising appraiser orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(b) the supervising appraiser has direct supervisory authority over the apprentice, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(B) A supervising appraiser of an apprentice appraiser shall also:

(1) The supervisor and apprentice are required to complete a course that is oriented toward the requirements and responsibilities of supervisory appraisers and expectations for trainee appraisers prior to obtaining an apprentice credential.

(2) Acknowledge in the appraisal certification the professional contribution of the apprentice in accordance with the Uniform Standards of Professional Appraisal Practice; and

(3) Provide the apprentice with a copy or allow access of any final appraisal document in which the apprentice participated.

(4) Jointly maintain with the apprentice appraiser an experience log as established in Section 137-300.01(A)(3).

(5) Must be certified for a minimum of three years prior to being eligible to become a supervisory appraiser.

(6) Be in good standing with the Board and not subject to any disciplinary action within the last three years that affects the supervisor's legal eligibility to engage in the practice of appraising.

**137-500.01. Continuing Education.**

(A) All appraisers, including apprentice appraisers, prior to their first and all subsequent renewals of their authorization to engage in real estate appraisal activity, must complete the continuing education requirement of at least twenty-eight (28) class hours of approved instruction biennially.

(B) Continuing education is to be reported on a form approved by the Board and must have all supporting documentation attached. To ensure that it is recorded prior to the renewal deadline of June 30 and does not delay an appraiser's renewal, it should be received by the Board no later than June 1. The Board cannot guarantee that a renewal will be processed prior to the expiration date of June 30 if forms are received after June 1. Any continuing education reports submitted after August 31 will be subject to a late fee.

(C) Approved qualifying courses may be used to meet the continuing education requirement provided that the following conditions are met:

(1) Qualifying courses taken after July 1, 1992, must be on the approved list.

(2) The level of the course must be above the appraiser's current status [e.g. a licensed appraiser may receive continuing education credit for taking a Certified Residential or Certified General Level Course].

(3) Credit will not be given for the same category course taken within a two (2) year period.

(4) The current 7-hour National Uniform Standards of Professional Appraiser Practice Update Course must be taken by all appraisers prior to each renewal.

(D) Appraisers may request that they receive credit for continuing education for a course taken that has not been approved by the Board. Appraisers may use qualifying courses for continuing education credit provided that the content is substantially different from their previously completed qualifying courses. Credit will be granted only if the appraiser provides satisfactory proof of course completion and the Board finds that the course meets the criteria set for continuing education courses with regard to subject matter, course length, instructor qualification and student attendance. Requests for continuing education credit for non-approved courses must be made on a form approved by the Board and must be submitted along with a nonrefundable fee.

(E) Appraisers who received their authority to engage in real estate appraisal activity in South Carolina through either a reciprocal agreement with their state of residence or as a non-resident South Carolina appraiser may meet the continuing education requirements by providing evidence that they have met the continuing education requirements of their state of residence. Such real estate appraisal requirements must meet South Carolina's minimum hour requirements and be approved by the regulatory agency in their state.

(F) Submission of false or misleading information is grounds for immediate revocation of the appraiser's authority to practice and other disciplinary actions.

(G) Approved instructors may receive up to one-half of their continuing education credit for teaching continuing education courses, subject to Board approval. Credit will not be given for the same continuing education course more than once during a continuing education cycle.

**137-800.01. Payment of Fees.**

Fees associated with an initial application (including the examination fee) to become a permitted, registered, licensed or certified real estate appraiser must be paid by check or money order.

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### 137-800.03. Biennial Fee Schedule.

The following biennial fee schedule may be adjusted, but shall not exceed amounts specified:

Type	Fee
(1) Apprentice appraiser permit	400.00
(2) Apprentice appraiser permit renewal	400.00
(3) Mass appraiser renewal	400.00
(4) Appraiser license/certification examination fee (per application)	100.00
(5) Appraiser license/certification	400.00
(6) Appraiser license/certification renewal	400.00
(7) Late penalty for renewal of license/certification/inactive status:	
(a) July 1 through July 31	75.00
(b) August 1 through August 31	100.00
(c) After August 31 and before next renewal period	150.00
(8) Late penalty for submission of continuing education credit	50.00 after August 31
(9) Permit/license/certification replacement fee (per application)	25.00
(10) Personal name change (per application)	15.00
(11) Inactive status	200.00
(12) Reinstatement from inactive licensed or certified appraiser	400.00
(13) Attestation of license/certification (per request)	20.00
(14) Course approval (under 15 hours) (per application)	100.00
(15) Course approval (15 hours or more) (per application)	200.00
(16) Course approval renewal	100.00
(17) Penalty for late course renewal	50.00
(18) Instructor approval (per application)	200.00
(19) Instructor approval renewal	150.00
(20) Penalty for late instructor renewal	50.00
(21) Appraisers roster (per request)	40.00
(22) Appraiser mailing labels (per request)	50.00
(23) Diskette of appraisers roster (per request)	50.00
(24) Change in appraiser classification (per application)	75.00
(25) Appraiser equivalent continuing education approval (per application)	50.00
(26) Bad check charge (per occurrence)	30.00 (or amount specified by law; see Section 34-11-70)
(27) Temporary practice permit (per application)	150.00
(28) In addition to the fees listed above, an annual Federal Registry Transmittal fee of 80.00 established by Public Law 101-73, Title XI, Real Estate Appraisal Reform Amendments will be charged for all licenses and certifications.	

### 137-800.05. Expired Permit, License or Certificate.

(A) Expired real estate appraiser permits, licenses and certificates may be reinstated within 12 months after expiration upon proper application, payment to the Board of the renewal fee as established in Section 137-800.03, plus a late fee as established in Section 137-800.03, and proof of having obtained the continuing education that would have been required had the permit, license or certificate been continuously renewed.

(B) Permits, licenses and certificates expired for more than twelve (12) months will be cancelled. Such cancelled permits, licenses and certificates may be considered for reinstatement upon proper application, payment of the original license or certificate fee as established in Section 137-800.03, payment of the late fee as established in Section 137-800.03, and proof of having obtained continuing education equal to the total number of class hours that would have been required had the permit, license or certificate been continuously renewed including the most recent 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.

Such applications will be reviewed by the Board to determine whether an examination and/or additional real estate appraisal education will be required.

137-900.05. Curriculum and Attendance.

(A) Topics for qualifying courses referenced in the South Carolina Real Estate Appraiser License and Certification Act must be broad in scope and must cover various principles, concepts, standards, practices and/or methods that are applicable to the performance of a wide range of appraisal assignments that will commonly be encountered by licenses or certified appraisers in connection with appraisals in federally-related transactions. The courses must be at least fifteen (15) hours and must include an examination pertinent to that educational offering. Prelicense appraisal courses must be in modules which require a specified number of education hours at each credential level as established by the Appraiser Qualifications Board (AQB) of The Appraisal Foundation.

(B) The seventy-five (75) hours required for qualifying as a real estate apprentice appraiser must emphasize appraisal of one-to four-unit residential properties and must include content on the following course modules:

1. Basic Appraisal Principles (30 hours);
2. Basic Appraisal Procedures (30 hours);
3. National USPAP Course or its equivalent as determined by the AQB (15 hours).

(C) The one hundred fifty (150) hours required for a state licensed real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours) and the National USPAP Course or its equivalent as determined by the AQB (15 hours) in addition to the following course modules:

1. Residential Market Analysis And Highest And Best Use (15 hours);
2. Residential Appraiser Site Valuation And Cost Approach (15 hours);
3. Residential Sales Comparison And Income Approaches (30 hours);
4. Residential Report Writing And Case Studies (15 hours).

(D) The two hundred (200) hours required for a state certified residential real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours), National USPAP Course or its equivalent as determined by the AQB (15 hours), Residential Market Analysis And Highest And Best Use (15 hours), Residential Appraiser Site Valuation And Cost Approach (15 hours), Residential Sales Comparison And Income Approaches (30 hours), and Residential Report Writing And Case Studies (15 hours) in addition to the following course modules:

1. Statistics, Modeling And Finance (15 hours);
2. Advanced Residential Applications And Case Studies (15 hours);
3. Appraisal Subject Matter Electives (20 hours and may include hours over the minimum in other modules).

(E) The three hundred (300) hours required for a state certified general real estate appraiser must include content from the Basic Appraisal Principles (30 hours), Basic Appraisal Procedures (30 hours), National USPAP Course or its equivalent as determined by the AQB (15 hours), Statistics, Modeling And Finance (15 hours) in addition to the following course modules:

1. General Appraiser Market Analysis And Highest And Best Use (30 hours);
2. General Appraiser Sales Comparison Approach (30 hours);
3. General Appraiser Site Valuation And Cost Approach (30 hours);
4. General Appraiser Income Approach (60 hours);
5. General Appraiser Report Writing And Case Studies (30 hours);
6. Appraisal Subject Matter Electives (30 hours and may include hours over the minimum in other modules).

(F) Topics for continuing education courses must contribute to the goal of maintaining or increasing the knowledge, skill and competence of real estate appraisers with regard to the performance of real estate appraisals in a manner that best serves the public interest and must be a minimum of two (2) class hours in length.

(G) Learning objectives and detailed lesson plans reflecting the course content with time allotments must be furnished to the Board at the time of application for approval, along with copies of all quizzes and examinations for qualifying courses. Examinations and the criteria for such examinations and final grade determination may



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be developed by each provider based on its individual concepts. The Board may, however, direct alterations in examinations procedures, criteria for passing, and administration whenever deemed necessary.

(H) Providers must identify to the Board the texts to be used in any approved course of instruction. The Board may direct that the school withdraw texts and may require additional instructional materials.

(I) For qualifying courses, providers must establish uniform testing and grading procedures for their quizzes and examinations and must use approved instructors for administering and monitoring all such tests. No proprietor, instructor or any other individual may arbitrarily alter a student's grade or offer to students any re-examination of the same test previously administered. Retake examinations must contain at least eighty percent (80%) new material.

(J) Class meetings must be limited to a maximum of eight (8) hours in any given day. Students must be allowed one ten (10) minute break each hour and must be allowed at least one thirty minute break for classes that exceed four (4) hours. Providers must require strict attendance of all classroom hours required by law and must maintain records indicating all student absences.

(K) Providers may offer students failing to meet the minimum-hour requirement make-up sessions as follows:

1. a make-up session offered by the provider consisting of the content covered in the session or hours missed; or
2. a video tape of the class session missed, supervised by the instructor, if not more than twenty percent (20%) of the classroom hours are missed; or
3. attendance of the same class session offered by the provider at a future date.

(L) Each provider shall, upon request by the Board, provide the Board with a roster of students in attendance at an approved course. The roster shall list the course identification number assigned by the Board, provider's name, instructor's name, title, location and dates of course; full legal name, address, phone number, permit/license/certificate number, if applicable, of each student, along with the number of hours in attendance and final grade, if applicable. Rosters must be verified by an authorized official of the provider.

(M) A Certificate of Completion prescribed by the Board shall be awarded to each course graduate, signed and dated by the authorized official of the provider, and must contain the course identification number assigned by the Board, provider's name and address, title, location, dates and number of hours of the course, full legal name, and license number, if applicable, of the student.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

The updated regulations will comply with recommendations of the Appraisal Subcommittee of the Federal Financial Institutions Examinations Council and make corrections and editorial changes.

Document No. 4630  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**RESIDENTIAL BUILDERS COMMISSION**

CHAPTER 106

Statutory Authority: 1976 Code Sections 40-1-70 and 40-59-70

106-2. Residential Specialty Contractors License.

### **Synopsis:**

The South Carolina Residential Builders Commission proposes to amend its regulations to require examination for the relicensure of plumbers, electricians and heating and air conditioning installers and repairers if: their license was issued prior to the examination requirement; they were grandfathered into compliance; and they allow their license to lapse or expire.

A Notice of Drafting was published in the *State Register* on August 28, 2015.

**Instructions:**

Sections (a), (b) and (c) of Regulation 106-2 are amended as shown below.

**Text:**

## 106-2. Residential Specialty Contractors License.

As provided by Section 40-59-220, the Commission finds that the following residential specialty classifications must be licensed after examination satisfactorily demonstrating that an applicant is qualified to engage in a residential specialty contractor classification. When the cost of an undertaking to be performed by a licensed residential specialty contractor exceeds five thousand dollars, the licensee must obtain an executed surety bond in an amount approved by the Commission not less than ten thousand dollars.

a. Heating and Air Conditioning Installer and Repairers, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure. In the event that such license, issued without examination, is allowed to lapse or expire or is suspended or revoked, examination shall be required for the license to be re-issued.

b. Plumbers, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure. In the event that such license, issued without examination, is allowed to lapse or expire or is suspended or revoked, examination shall be required for the license to be re-issued.

c. Electricians, effective July 1, 2004, except that applicants who have lawfully engaged in this classification in good standing for not less than two years prior to July 1, 2004, shall be issued a license without examination upon surrender of the proper registration card and compliance with all other requirements for licensure. In the event that such license, issued without examination, is allowed to lapse or expire or is suspended or revoked, examination shall be required for the license to be re-issued.

**Fiscal Impact Statement:**

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

**Statement of Rationale:**

The updated regulation will require examination for relicensure of plumbers, electricians and heating and air conditioning installers and repairers if: their license was issued prior to the examination requirement; they were grandfathered into compliance; and they allow their license to lapse or expire.