

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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JAMES H. HARRISON, DIRECTOR
DEIRDRE BREVARD-SMITH, EDITOR

P.O. BOX 11489
COLUMBIA, SC 29211
TELEPHONE (803) 212-4500

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2016 PUBLICATION SCHEDULE

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

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

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

REPRODUCING OFFICIAL DOCUMENTS

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

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
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2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
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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 August 26, 2016 for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3495.

Affecting Beaufort County**St. Joseph's/Candler Imaging Center – Bluffton**

Purchase and installation of an Oasis XP 1.2T Open MRI System at a total project cost of \$1,950,114.22.

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

Consolidate Trident Medical Center's and Summerville Medical Center's obstetrics and neonatal services into one unit at the SMC campus and updated aesthetics and amenities at a total project cost of \$18,795,016.

Affecting Florence County**McLeod Regional Medical Center of the Pee Dee, Inc. d/b/a McLeod Physicians Associates II**

Purchase of a fix MRI on the campus of McLeod Regional Medical Center of the Pee Dee, Inc. at a total project of \$2,001,276.

QHG of South Carolina, Inc. d/b/a Carolinas Hospital System

Renovation to an existing facility for a dedicated Electrophysiology (EP) and the purchase of associated equipment including an IGS 520 Imaging System at a total project cost of \$2,501,451.

Affecting Greenville County**UHS of Greenville, LLC d/b/a The Carolina Center for Behavioral Health**

Addition of ten (10) psychiatric beds, addition of eight (8) inpatient substance abuse beds and the addition of 14,641 square feet to Carolina Center at a total project cost of \$4,468,025.

Upstate Affiliates Organization d/b/a Greenville Memorial Hospital

Renovation and expansion of an existing space to upgrade the MRI inpatient and outpatient services as well as replace an existing 1.5T analog MRI with a digital 1.5T MRI at a total project cost of \$7,832,154.

Affecting Horry County**Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center**

Addition of twenty four (24) rehabilitation beds to its patient tower for a total of twenty four (24) rehabilitation beds at a total project cost of \$11,624,295.

Affecting Spartanburg County**Carolina Specialty Eye Surgery, LLC d/b/a Carolina Specialty Eye Surgery Center**

Construction of a new Ambulatory Surgical Facility which includes two (2) operating rooms and two (2) procedure rooms at a total project cost of \$7,346,840.

4 NOTICES

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 August 26, 2016. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

Affecting Aiken County

Aiken Regional Medical Centers, LLC d/b/a Aiken Regional Medical Centers

Establishment of a new inpatient rehabilitation program with the addition of fourteen (14) rehabilitation beds at a total project cost of \$2,797,423.

Critical Nurse Staffing, Inc.

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.

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.

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.

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

Affecting Charleston County

Critical Nurse Staffing, Inc.

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

Affecting Edgefield County

Critical Nurse Staffing, Inc.

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

Affecting Greenville County

Chestnut Hill Mental Health Center, Inc. d/b/a SpringBrook Behavioral Health System

Addition of 18 adolescent acute psychiatric beds for a total of 56 psychiatric beds at a total project cost of \$1,008,250.

Upstate Affiliates Organization d/b/a Greenville Health System d/b/a GHS Marshall I. Pickens Hospital

Addition of nineteen (19) psychiatric beds for a total of sixty-five (65) psychiatric beds by converting nineteen (19) private rooms back to semi-private rooms at a total project cost of \$112,959.

Upstate Affiliates Organization d/b/a Greenville Memorial Hospital

Renovation and expansion of an existing space to upgrade the MRI inpatient and outpatient services as well as replace an existing 1.5T analog MRI with a digital 1.5T MRI at a total project cost of \$7,832,154.

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

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

Affecting Horry County**Conway Hospital Inc. d/b/a Conway Medical Center - Carolina Forest Emergency Center**

Construction of a Freestanding Emergency Department in Horry County at a total project cost of \$9,295,887.

Grand Strand Regional Medical Center, LLC d/b/a Grand Strand Medical Center

Purchase of a second da Vinci robotics surgical system at a total project cost of \$3,231,803.

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

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

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

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

Affecting Orangeburg County**Critical Nurse Staffing, Inc.**

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

Affecting Richland County**Critical Nurse Staffing, Inc.**

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

Affecting Spartanburg County**Carolina Specialty Eye Surgery, LLC d/b/a Carolina Specialty Eye Surgery Center**

Construction of a new Ambulatory Surgical Facility which includes two (2) operating rooms and two (2) procedure rooms at a total project cost of \$7,346,840.

6 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF FINAL AMENDMENT TO AIR QUALITY STATE IMPLEMENTATION PLAN

Statutory Authority: 1976 Code Sections 48-1-10 et seq.

The South Carolina Department of Health and Environmental Control (Department) is publishing this Notice of General Public Interest to provide opportunity to comment on the Department's proposal to address required State Implementation Plan (SIP) elements under Section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA) pertaining to interstate transport of criteria pollutants. Specifically, the SIP elements which cover any emissions activity in one state that contributes significantly to nonattainment (called prong 1), or interferes with maintenance (called prong 2), of the 2010 1-hour NO₂ NAAQS in another state. These requirements were developed to assure attainment and maintenance of the NAAQS. To be considered, the Department must receive comments by 5:00 p.m. on September 26, 2016, the close of the comment period.

The Department is also providing the interested public with the opportunity to request a public hearing on the SIP amendment. If requested, the Department will hold a public hearing on October 6, 2016, at 2:00 p.m., in Room 2151 of the Sims Building, 2600 Bull Street, Columbia, South Carolina. However, pursuant to 40 CFR 51.102, if the Department does not receive a request for a public hearing by the close of the comment period, 5:00 p.m. on September 26, 2016, the Department will cancel the public hearing. If the Department cancels the public hearing, then the Department will notify the public at least one week prior to the scheduled hearing via the Department's Public Notices webpage: <http://www.scdhec.gov/PublicNotices/>. Interested persons may also contact Anthony T Lofton, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201; via phone at (803) 898-7217; or email at loftonat@dhec.sc.gov for more information, or to find out if the Department will hold a public hearing.

Synopsis:

On February 9, 2010, the EPA published a revised NAAQS for Nitrogen Dioxide (75 FR 6474). With this rule, the EPA set a new 1-hour primary NO₂ standard at the level of 100 parts per billion (ppb) and retained the current annual average NO₂ standard of 53 ppb. Sections 110(a)(1) and (2) of the CAA require all states to submit plans to provide for the implementation, maintenance, and enforcement of the NAAQS.

Currently, the State of South Carolina is attaining the standard for the 2010 1-hour NO₂ NAAQS; and there are no sources within South Carolina that emit NO₂ to the degree which contributes significantly to nonattainment in, or interferes with maintenance by, any other state with respect to the 2010 1-hour NO₂ NAAQS. The Department is proposing to certify that it has addressed the aforementioned "Interstate Pollution Transport" elements pertaining to the NO₂ attainment areas in South Carolina. Pending the receipt of any comments, this Final Amendment to the SIP will take effect 30 days following publication of this Notice in the *South Carolina State Register* on September 26, 2016, at which time the Department will submit a final SIP certification package to the EPA for approval.

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

DHEC-Bureau of Land and Waste Management, File #51267
Moore Business/Emerald Road Site

**NOTICE OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION,
AND COMMENT PERIOD**

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (the Department) intends to enter into a proposed Responsible Party Voluntary Cleanup Contract (VCC) with R.R. Donnelley & Sons Company (Donnelley). Under the VCC, Donnelley will perform response actions at the Moore Business Forms, also known as the Emerald Road, facility located in Greenwood County at 1416 Emerald Road, Greenwood, South Carolina.

Response actions addressed in the VCC include, but may not be limited to, Donnelley funding and performing a remedial investigation and an evaluation of cleanup alternatives for the Site under DHEC's oversight. Further, Donnelley will reimburse the Department's past response costs of \$9,454.93 and oversight costs pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. Section 44-56-200 (as amended). Notice of Contribution Protection and Comment Period will be provided to known potentially responsible parties via email or US mail. The VCC is available:

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

Any comments to the proposed VCC must be submitted in writing, postmarked no later than September 26, 2016, and addressed to: Pat Vincent, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, Donnelley will receive a covenant not to sue for the work done in completing the response actions specifically covered in the VCC and completed in accordance with the approved work plans and reports. Upon execution of the VCC, Donnelley shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9613(f)(3)(B), and under S.C. Code Ann. Section 44-56-200, for the response actions specifically covered in the VCC including the approved work plans and reports. Contribution protection is contingent upon the Department's determination that Donnelley has successfully and completely complied with the VCC.

8 DRAFTING NOTICES

**CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27**

Statutory Authority: 1976 Code Sections 47-4-30 and 47-17-130

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce.

Interested parties should submit written comments to Dr. Suzanne K. Southworth, Director, State Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, S. C. 29224-2406. To be considered comments should be received no later than September 23, 2016, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Federal Meat Inspection Act (21 USDA 661, Section 301) which establishes Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays and other similar requirements.

This regulation will not require legislative action.

**CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27**

Statutory Authority: 1976 Code Sections 47-4-30, 47-19-30, and 47-19-170

Notice of Drafting:

The Livestock-Poultry Health Commission is considering modernizing, clarifying and updating existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce.

Interested parties should submit written comments to Dr. Suzanne K. Southworth, Director, State Meat-Poultry Inspection Department, P.O. Box 102406, Columbia, S.C. 29224-2406. To be considered comments should be received no later than September 23, 2016, the close of the drafting comment period.

Synopsis:

This regulation is being promulgated to comply with the Poultry Products Inspection Act (21 USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations at least as stringent as those adopted by the United States Government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements, such as utilizing state marks of inspection, designating use of state holidays, and other similar requirements.

This regulation will not require legislative action.

DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28

Statutory Authority: 1976 Code Sections 37-6-104, 37-6-402, 37-6-403, 37-6-506

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to amend and modify Regulations 28-4, 28-6, 28-8, 28-9, 28-30, 28-70. Interested parties are invited to present their views in writing to Kelly Rainsford, Deputy for Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250. To be considered, comments must be received no later than September 30, 2016, the close of the drafting comment period.

Synopsis:

The Department intends to amend the following regulations: 28-4, 28-6, 28-8, 28-9, 28-30, 28-70. The regulations were last amended April 11, 1980 (28-30), February 26, 1993 (28-4, 28-6) and May 24, 2013 (28-8, 28-9, 28-70). The purposes of the proposed amendments are to revise and edit regulatory language to comply with, and conform to, current statutory requirements and to delete obsolete provisions.

This regulation will require legislative review.

DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28

Statutory Authority: 1976 Code Sections 37-6-104, 37-6-402, 37-6-403, and 37-6-506

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to promulgate R.28-55 addressing the revocable assignment of wages. Interested persons are invited should submit their views in writing to Kelly Rainsford, Deputy for Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, South Carolina 29250-5757. To be considered, comments must be received no later than September 30, 2016, the close of the drafting comment period.

Synopsis:

Sections 37-2-410 (last amended in 1974), 37-2-710 (passed in 1985) and 37-3-403 (last amended 1974) permit a consumer to authorize the revocable assignment of wages pertaining to a debt arising from a credit sale, consumer lease, loan or rental-purchase transaction. The South Carolina Department of Consumer Affairs proposes to provide a framework for the provision of a revocable assignment of wages, including format and disclosure requirements.

This regulation will require legislative review.

10 DRAFTING NOTICES

DEPARTMENT OF CONSUMER AFFAIRS CHAPTER 28

Statutory Authority: 1976 Code Sections 37-6-506 and 37-17-120 et seq.

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to promulgate R.28-90 addressing Discount Medical Plan Organizations. Interested parties are invited to present their views in writing to Becky Dover, Staff Attorney, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250. To be considered, comments must be received no later than September 30, 2016, the close of the drafting comment period.

Synopsis:

The Legislature granted the authority to administer the Discount Medical Plan Organizations statute to the Department of Consumer Affairs in 2007. The statute puts forth requirements for companies offering Discount Medical Plans in this State. The proposed regulation will clarify undefined terms of the statute, address renewal requirements, and address any other items necessary to administer the statute.

This regulation will require legislative review.

DEPARTMENT OF CONSUMER AFFAIRS CHAPTER 28

Statutory Authority: 1976 Code Sections 39-61-10 et seq.,
Particularly Section 39-61-160

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to amend Regulation 28-80, Motor Club Certificate of Authority. Interested parties are invited to present their views in writing to Kelly Rainsford, Deputy of Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250. To be considered, comments must be received no later than 5:00 p.m. September 30, 2016, the close of the drafting comment period.

Synopsis:

The Department intends to amend Regulation 28-80. The purpose of the proposed amendments is to revise and edit regulatory language to provide for licensing applications to be filed using the Department's new online filing system.

Legislative review of this proposal will be required.

DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Sections 40-39-10 et seq.,
Particularly Sections 40-39-20 and 40-39-120

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to amend Regulation 28-200, Pawnbroker Certificate of Authority. Interested parties are invited to present their views in writing to Kelly Rainsford, Deputy of Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250. To be considered, comments must be received no later than 5 p.m. September 30, 2016, the close of the drafting comment period.

Synopsis:

The Department intends to amend Regulation 28-200. The purpose of the proposed amendments is to revise and edit regulatory language to conform to current statutory requirements and to delete obsolete provisions.

The regulation will require legislative review.

DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Sections 37-16-10 et seq.,
Particularly Section 37-16-90

Notice of Drafting:

The South Carolina Department of Consumer Affairs proposes to amend Regulation 28-1100, Prepaid Legal Services Certificate of Registration. Interested parties are invited to present their views in writing to Kelly Rainsford, Deputy of Regulatory Enforcement, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, SC 29250. To be considered, comments must be received no later than 5:00 p.m. September 30, 2016, the close of the drafting comment period.

Synopsis:

The Department intends to amend Regulation 28-1100. The purpose of the proposed amendments is to revise and edit regulatory language to provide for licensing applications to be filed using the Department's new online filing system.

The regulation will require legislative review.

12 DRAFTING NOTICES

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-25-110, 59-26-10 and 20 U.S.C. 6301 et seq.

Notice of Drafting:

The South Carolina Board of Education proposes to amend Regulation 43-300, Accreditation Criteria, last revised on June 27, 2014.

Interested persons may submit their comments in writing to Roy Stehle, Director, Office of Federal and State Accountability, Division Federal, State, and Community Resources, 1429 Senate Street, Columbia, South Carolina 29201 or by e-mail to RStehle@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on September 26, 2016.

Synopsis:

State Board of Education (SBE) Regulation 43-300 (R.43-300) governs the accreditation process for schools and districts in South Carolina. The proposed amendment is being made for three purposes: (1) to enhance the regulatory and program assurances of alternative accreditation by AdvancED or other approved accreditation programs, (2) to remove the SCDE's pre-alternative accreditation audit and five year audit for districts accredited by AdvancED and (3) to align districts' strategic plan deadlines to their AdvancED annual deadline.

Legislative review is required.

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Section 59-29-190

Notice of Drafting:

The South Carolina Board of Education proposes to amend Regulation 43-258.1, Advanced Placement (AP) for academically talented students.

Interested persons may submit their comments in writing to Rick Blanchard, Education Associate, Office of Standards and Learning, division of College and Career Readiness, 1429 Senate Street, Room 602-B, Columbia, SC 29201 or by email to rblanchard@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on September 26, 2016.

Synopsis:

Regulation 43-258.1 governs the requirements for AP courses in South Carolina, including the teacher requirements for special endorsements. Currently the regulation states each teacher of an AP course shall have completed the appropriate AP three-graduate-hour training program or have successfully completed forty-five hours of training provided by College Board endorsed professional development opportunities verified by the appropriate college or university. Exception 1: Newly assigned teachers of AP courses will have one calendar year to meet the AP course training requirements. Exception 2: Teachers who hold a PhD in their subject area may have the training waived.

The amendment would allow teachers the option to successfully complete thirty hours of training provided by College Board approved professional development opportunities verified by the appropriate institution to add the special AP course endorsement. This is consistent with requirements of neighboring states and with most states in the country. The changes allow more flexibility for school districts to meet the requirements.

Legislative review is required.

DEPARTMENT OF EMPLOYMENT AND WORKFORCE

CHAPTER 47

Statutory Authority: 1976 Code Section 41-29-110

Notice of Drafting:

The South Carolina Department of Employment and Workforce proposes to amend Regulation 47-51, Appeals to Appeal Tribunal. Interested persons may submit written comments to Maura Dawson Baker, Assistant General Counsel, South Carolina Department of Employment and Workforce, 1550 Gadsden Street, Post Office Box 8597, Columbia, South Carolina 29202 or RegulationComments@dew.sc.gov. To be considered, all comments must be received no later than 5:00 p.m., September 7, 2016, the close of the drafting comment period.

Synopsis:

The Department is proposing to amend Regulation 47-51 to avoid confusion by removing reference to the South Carolina Administrative Procedures Act (APA).

Legislative review of these amendments is required.

DEPARTMENT OF EMPLOYMENT AND WORKFORCE

CHAPTER 47

Statutory Authority: 1976 Code Section 41-29-110

Notice of Drafting:

The South Carolina Department of Employment and Workforce proposes to amend Regulation 47-52, Appeals to the Appellate Panel. Interested persons may submit written comments to Maura Dawson Baker, Assistant General Counsel, South Carolina Department of Employment and Workforce, 1550 Gadsden Street, Post Office Box 8597, Columbia, South Carolina 29202 or RegulationComments@dew.sc.gov. To be considered, all comments must be received no later than 5:00 p.m., September 7, 2016, the close of the drafting comment period.

Synopsis:

The Department is proposing to amend Regulation 47-52 to identify the procedure within the Appellate Panel in the event a quorum cannot be formed or when a quorum is present but a majority decision is not reached.

Legislative review of these amendments is required.

14 DRAFTING NOTICES

DEPARTMENT OF EMPLOYMENT AND WORKFORCE CHAPTER 47

Statutory Authority: 1976 Code Section 41-29-110

Notice of Drafting:

The South Carolina Department of Employment and Workforce proposes to add Regulation 47-104, Work Search. Interested persons may submit written comments to Maura Dawson Baker, Assistant General Counsel, South Carolina Department of Employment and Workforce, 1550 Gadsden Street, Post Office Box 8597, Columbia, South Carolina 29202 or RegulationComments@dew.sc.gov. To be considered, all comments must be received no later than 5:00 p.m., September 7, 2016, the close of the drafting comment period.

Synopsis:

The Department is proposing to draft Regulation 47-104 Work Search to outline the work search requirements for claimants claiming unemployment insurance benefits.

Legislative review of these amendments is required.

OFFICE OF THE GOVERNOR CHAPTER 58

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

Notice of Drafting:

The Office of the Governor proposes amending Regulation 58-101, State Emergency Management Standards. Interested persons may submit written comments to Danielle Maynard, Legal Counsel, South Carolina Emergency Management Division, 2779 Fish Hatchery Road, West Columbia, South Carolina 29172, or via email at dmaynard@emd.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on September 23, 2016, the close of the drafting period.

Synopsis:

The Office of the Governor proposes amending the current version of Regulation 58-101 to include the role of the Adjutant General in emergency management. This revision will help delineate the roles and responsibilities in emergency management at the state level.

Legislative review of this revision is required.

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

Statutory Authority: 1976 Code Section 44-29-150

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation 61-22, The Evaluation of School Employees for Tuberculosis. Interested persons are invited to submit written comments to Melissa C. Overman, DO, MPH, CHES, FAOCOPM, Assistant State Epidemiologist, S.C. Department of Health and Environmental Control, 2100 Bull Street, Columbia, South Carolina 29201 or via email at OVERMAMC@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on September 26, 2016, the close of the drafting comment period.

Synopsis:

The Department of Health and Environmental Control proposes amending Regulation 61-22. The amendments will seek to incorporate scientifically-based measures for disease prevention while ensuring standards for tuberculosis evaluation meet best practices attainable with respect to compliance.

The Department may also make stylistic changes for internal consistency, clarification in wording, corrections of references, grammatical errors, outlining/codification, and such other changes as may be necessary to improve the overall quality of the regulation.

Legislative review is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
CHAPTER 10**

Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 48-27-140 and 48-27-190

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation proposes to move the fees for registration and renewal of foresters from Regulation 53-16 to Chapter 10. Interested persons may submit comments to Holly P. Beeson, Counsel to the Office of Communications and Governmental Affairs, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation proposes to move the fees for registration and renewal of foresters from Regulation 53-16 to Chapter 10.

Legislative review of this amendment is required.

16 DRAFTING NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION CHAPTER 10

Statutory Authority: 1976 Code Section 40-1-50, 40-1-70, 40-7-50, and 40-7-60

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation proposes to move the fee for cosmetologists receiving a master hair care license from Regulation 17-51 to Chapter 10. Interested persons may submit comments to Holly P. Beeson, Counsel to the Office of Communications and Governmental Affairs, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation proposes to move the fee for cosmetologists receiving a master hair care license to Chapter 10. This fee was located in Regulation 17-51, which was revised in May 2016.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF AMUSEMENT RIDES CHAPTER 71

Statutory Authority: 1976 Code Section 41-18-120

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation, Office of Amusement Rides proposes to supplement the definitions contained in its regulations. Interested persons may submit comments to: Duane Scott, Sr., Office of Amusement Rides, S.C. Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, Office of Amusement Rides proposes to amend the definitions contained in Regulation 71-4000.

Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF ARCHITECTURAL EXAMINERS CHAPTER 11

Statutory Authority: 1976 Code Sections 40-1-70 and 40-3-60

Notice of Drafting:

The Board of Architectural Examiners proposes to amend its regulations to update and make editorial corrections. Interested persons may submit comments to Lenora Addison-Miles, Administrator, Board of Architectural Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The Board of Architectural Examiners proposes to amend its regulations to update and make editorial corrections.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
STATE BOARD OF COSMETOLOGY
CHAPTER 35**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-13-80

Notice of Drafting:

The South Carolina State Board of Cosmetology proposes to amend its regulations regarding sanitary and safety rules. Interested persons may submit comments to Theresa Richardson, Administrator, Board of Cosmetology, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The South Carolina State Board of Cosmetology proposes to amend its regulations regarding sanitary and safety rules.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
CHAPTER 49**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-22-60

Notice of Drafting:

The State Board of Registration for Professional Engineers and Land Surveyors proposes to amend its regulations to comport with 2016 Act No. 259. Interested persons may submit comments to Lenora Addison-Miles, Administrator, State Board of Registration for Professional Engineers and Land Surveyors, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The State Board of Registration for Professional Engineers and Land Surveyors proposes to amend its regulations to comport with 2016 Act No. 259.

Legislative review of this amendment is required.

18 DRAFTING NOTICES

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS
CHAPTER 93**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-35-60

Notice of Drafting:

The Board of Long Term Health Care Administrators proposes to amend its regulations, including but not limited to, administrator-in-training requirements. Interested persons may submit comments to April D. Koon, Administrator, South Carolina Board of Long Term Health Care Administrators, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The Board of Long Term Health Care Administrators proposes to amend its regulations, including but not limited to, administrator-in-training requirements.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PHARMACY
CHAPTER 99**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-43-60(D)(5)

Notice of Drafting:

The South Carolina Board of Pharmacy proposes to promulgate a regulation setting forth the minimum specifications and practice standards governing pharmacies and pharmacists engaged in non-sterile compounding. Interested persons may submit comments to Lee Ann Bundrick, Chief Drug Inspector and Administrator, South Carolina Board of Pharmacy, Post Office Box 11927, Columbia, SC 29211-11927.

Synopsis:

The Board of Pharmacy proposes to promulgate a regulation setting forth the minimum specifications and practice standards governing pharmacies and pharmacists engaged in non-sterile compounding.

Legislative review is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PHARMACY
CHAPTER 99**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-43-60(D)(5)

Notice of Drafting:

The South Carolina Board of Pharmacy proposes to promulgate a regulation setting forth the minimum specifications and practice standards governing pharmacies and pharmacists engaged in sterile compounding. Interested persons may submit comments to Lee Ann Bundrick, Chief Drug Inspector and Administrator, South Carolina Board of Pharmacy, Post Office Box 11927, Columbia, SC 29211-11927.

Synopsis:

The Board of Pharmacy proposes to promulgate a regulation setting forth the minimum specifications and practice standards governing pharmacies and pharmacists engaged in sterile compounding.

Legislative review is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PYROTECHNIC SAFETY
CHAPTER 71**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-56-70

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation, State Board of Pyrotechnic Safety proposes to amend its regulations regarding Fireworks and Pyrotechnics. Interested persons may submit comments to: Molly Price, State Board of Pyrotechnic Safety, S.C. Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211.

Synopsis:

South Carolina Department of Labor, Licensing and Regulation, State Board of Pyrotechnic Safety proposes to amend Regulation 71-7405 regarding Fireworks and Pyrotechnics.

Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
REAL ESTATE COMMISSION
CHAPTER 105**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-57-60

Notice of Drafting:

The Real Estate Commission proposes to amend its regulations to comport with 2016 Act No. 170. Interested persons may submit comments to Roderick Atkinson, Administrator, Real Estate Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211.

Synopsis:

The Real Estate Commission proposes to amend its regulations to comport with 2016 Act No. 170.

Legislative review of this amendment is required.

20 DRAFTING NOTICES

DEPARTMENT OF REVENUE

CHAPTER 117

Statutory Authority: 1976 Code Sections 12-4-320 and 12-21-735

Notice of Drafting:

The South Carolina Department of Revenue is considering adding SC Regulation 117-1600 to implement the imposition of the cigarette tax via tax stamps as set out in Act No. 145 of 2016.

This regulation would contain provisions concerning reporting requirements under Chapters 47 and 48 of Title 11 along with provisions regarding affixing tax stamps, purchasing tax stamps, features of tax stamps, exemptions and refunds, display, storage, transfer, and transport of cigarettes. Tax stamps will be required as of January 1, 2019 in accordance with Act No. 145 of 2016.

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 September 26, 2016.

Synopsis:

The South Carolina Department of Revenue is considering adding SC Regulation 117-1600 to implement the imposition of the cigarette tax via tax stamps as set out in Act No. 145 of 2016. This regulation would contain provisions concerning reporting requirements, affixing tax stamps, purchasing tax stamps, features of tax stamps, exemptions and refunds, display, storage, transfer, and transport of cigarettes. Tax stamps will be required as of January 1, 2019 in accordance with Act No. 145 of 2016.

Document No. 4655
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27
Statutory Authority: 1976 Code Section 46-9-40

27-160. Plant Nursery Regulations.

Preamble:

The State Crop Pest Commission proposes to update and add language regarding the regulation of nursery plant shipments and install fees for nursery dealers in South Carolina.

Section-by-Section Discussion

27-160. Plant Nursery Regulations

Replace and add new text with definitions to be used throughout this section.

27-161. Nursery Registration

Add new text to reorganize section and add exception for turfgrass growers in Nursery Registration fee schedule section.

27-162. Nursery Dealer

Add new text to reorganize section and add graduated dealer registration fee schedule.

27-163. Nursery Stock Shipment

Add new text to reorganize section and allow for multiple options for acquiring shipping tags.

27-164. Penalties

Add new text indicating the ramifications for failure to follow the terms and provisions of these regulations.

A Notice of Drafting regarding the subject matter of the proposed regulation was published in the *State Register* on January 22, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

All written comments and requests for a public hearing should be sent to Dr. Stephen E. Cole, Director, Regulatory Services, Clemson University, 511 Westinghouse Road, Pendleton, SC 29670. A hearing will be held at 511 Westinghouse Road, Pendleton, SC starting at 10:00 am on September 29, 2016, unless no requests are made by September 26, 2016, at which time the hearing on September 29, 2016 will be cancelled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The proposed regulations will reorganize the Plant Nursery Regulations, restructure the graduated scale for Nursery Registration Fees, and add graduated Nursery Dealer Registration fees.

Legal Authority: S.C. Code Ann. Section 46-9-40.

22 PROPOSED REGULATIONS

Plan for Implementation: The restructuring of Nursery Registration Fees affecting registered turfgrass growers will be initiated through an immediate review and realignment based on acreage. Nursery Dealer registration fees will be determined through survey during Nursery Dealer registration period and immediately applied. A semi-annual review for each will take place during inspections.

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

The proposed regulation changes will reorganize existing Plant Nursery Regulations for better user understanding, will implement a restructure of Nursery grower fees that accommodates turfgrass growers by lowering some of their fees, will create a new option for acquiring shipping tags, and will implement a new Dealer Registration fee that will bring the state into alignment with all other fee-requiring states for this service while providing funding for processing and inspections.

DETERMINATION OF COSTS AND BENEFITS:

Change in Plant Nursery registration fees will result in an overall decrease in fees. Addition of shipping tag acquisition option will provide state plant shippers with a more economic method of meeting the shipping requirements of other states. Addition of Dealer Registration fees will result in new fees for nursery dealers who are not otherwise exempt.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The reduction in some Nursery Regulation fees and shipping costs and addition of fees to the Nursery Dealer Registration category will continue to allow the Commission to enforce regulatory plant laws and protect the state's agricultural industry, which includes working to decrease the introduction and spread of new and invasive pests and diseases in South Carolina through consistent inspections and surveys. Without implementation of the proposed regulations, the mandates of the commission cannot be sustained due to increasing numbers of inspections, surveys, and shipments provided to this industry sector and invasive pests may move in from other states putting the state's agricultural resources at risk.

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. 4656
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, and 59-59-10 et seq.

43-274.1. At-Risk Students

Preamble:

The State Board of Education proposes to amend R.43-274.1, At-Risk Students, to remove references to the Palmetto Assessment of State Standards (PASS) and the High School Assessment Program (HSAP).

Notice of Drafting for the proposed amendments to the regulation was published in the State Register on June 24, 2016.

Section-by-Section Discussion

- Section II(A)(1) Changes “Palmetto Assessment of State Standards (PASS) test results” to “results of statewide assessments used for accountability purposes and other state-funded (e.g., formative) assessments ”
- Section II(A)(2) Deletes the “High School Assessment Program (HSAP) test results” due to the above changes to Section II(A)(1).
- Section II(A)(3–7) Renumbers remaining items in this Section due to the above listed changes to (A)(1) and (A)(2)

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on October 11, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Jamaal Perry, Education Associate, Office of Student Intervention Services, Division of Federal, State, and Community Resources, 1429 Senate Street, Suite 802, Columbia, SC 29201 or by e-mail to jperry@ed.sc.gov on or before 5:00 pm on September 26, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-274.1.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: At-Risk Students

Purpose: Changes to R.43-274.1 are proposed to remove references to the Palmetto Assessment of State Standards (PASS) and the High School Assessment Program (HSAP).

Legal Authority: 1976 Code Sections 59-5-60, 59-5-65, and 59-59-10 et seq.

Plan for Implementation: The proposed amendments would be incorporated within R.43-274.1 upon publication in the State Register as a final regulation.

24 PROPOSED REGULATIONS

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

The changes reflect references to statewide assessments used for accountability purposes.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the school districts. The proposed amendments will benefit students, schools, districts, and the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation has no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

School districts are encouraged to carefully review a variety of assessments in diagnosing students' academic difficulties; therefore, it is important that the statewide assessments used for accountability purposes be identified in the regulation, but a specific assessment not be named.

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. 4657

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-5-65, and 59-59-10 et seq.

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

Preamble:

The State Board of Education (SBE) proposes to amend R.43-279, Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts to include the changes recommended by the Safe Schools Taskforce, which was established by State Superintendent of Education, Molly M. Spearman, in November 2015. The amendments will include changes in the levels of misconduct, acts of misconduct, disciplinary enforcement procedures, and possible consequences.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on June 24, 2016.

Section-by-Section Discussion

Section I	Adds “The mission of the SCDE is to provide leadership and support so that all public education students graduate prepared for success in citizenship, college, and careers as envisioned by the Profile of the South Carolina Graduate.”
Section III(B)	Changes “disorderly conduct” to “behavioral misconduct”
Section III(C)	Adds “consequences and/or”
Section III(D)	Changes “sanctions” to “consequences”; changes “in-school suspension” to “detention”; deletes “while”
Section III(E)	Adds “and consequences”
Section IV(A)	Changes “Disorderly conduct” to “Behavioral misconduct”
Section IV(A)(1)	Changes “Disorderly conduct” to “Behavioral misconduct”; adds a hyphen
Section IV(A)(2)	Changes “disorderly conduct” to “behavioral misconduct”
Section IV(A)(2)(d)	Deletes “d. Acting in a manner as to interfere with the instructional process” and renumbers items “e.-k.” to items “d.-k.”
Section IV(A)(2)(e)	Renumbered (A)(2)(d)
Section IV(A)(2)(f)	Renumbered (A)(2)(e) and replaces “Failure to complete assignments or carry out directions” with “Failure to comply with directives from school/district personnel or agents (to include volunteer aides or chaperones)”
Section IV(A)(2)(g)	Renumbered (A)(2)(f)
Section IV(A)(2)(h)	Renumbered (A)(2)(g)
Section IV(A)(2)(i)	Renumbered (A)(2)(h)
Section IV(A)(2)(j)	Renumbered (A)(2)(i) and adds “(three consecutive unlawful absences from school or a total of five unlawful absences)”
Section IV(A)(2)(k)	Renumbered (A)(2)(j) and becomes a new section “Possession of an electronic communication device (including, but not limited to, cell phones, tablets, computers, and iPods) inconsistent with school board policy;. an electronic communication device is a device that emits an audible signal, vibrates, displays a message, image or otherwise summons or delivers a communication to the possessor.”
Section IV(A)(2)(l)	Renumbered (A)(2)(k) and deletes “disorderly”; and adds “of behavioral misconduct” and “and communicated”
Section IV(A)(3)	Changes “disorderly conduct” to “behavioral misconduct”
Section IV(A)(3)(a)	Changes “an offense” to “acts”; change “apply” to “impose”; changes “sanction” to “consequence”; deletes “should”; and changes “sanction” to “consequence.”
Section IV(A)(3)(c)	Adds “impose the appropriate consequence and/or establish an intervention plan and/or behavioral contract”; deletes “effect the appropriate disciplinary action”
Section IV(A)(4)	Changes “sanctions” to “consequences”; changes “disorderly conduct” to “behavioral misconduct”
Section IV(A)(4)(d)	Adds “(silent lunch, after school, weekends, or another time that does not interfere with the instructional day)”
Section IV(A)(4)(e)	Former (A)(4)(e) deleted
Section IV(A)(4)(f)	Former (A)(4)(f) deleted

26 PROPOSED REGULATIONS

Section IV(A)(4)(g)	Renumbered (A)(4)(e) and changes “sanctions” to “consequences”; add “and communicated”
Section IV(B)(1)	Changes “Disorderly conduct” to “Behavioral misconduct”; adds a hyphen
Section IV(B)(2)(a)	New (B)(2)(a) which states “Violation of a Level I intervention plan and/or behavioral contract” and renumber items “a–o”
Section IV(B)(2)(a)	Renumbered (B)(2)(b)
Section IV(B)(2)(b)	Renumbered (B)(2)(c)
Section IV(B)(2)(c)	Renumbered (B)(2)(d)
Section IV(B)(2)(d)	Renumbered (B)(2)(e)
Section IV(B)(2)(e)	Renumbered (B)(2)(f)
Section IV(B)(2)(f)	Renumbered (B)(2)(g)
Section IV(B)(2)(g)	Renumbered (B)(2)(h)
Section IV(B)(2)(h)	Renumbered (B)(2)(i) and changes “Refusal to obey” to “Repeated refusal to comply with directives from”; deletes “whose responsibilities include supervision of students”
Section IV(B)(2)(i)	Renumbered (B)(2)(j) and adds “and”
Section IV(B)(2)(j)	Renumbered (B)(2)(k)
Section IV(B)(2)(k)	Renumbered (B)(2)(l)
Section IV(B)(2)(l)	Renumbered (B)(2)(m)
Section IV(B)(2)(m)	Renumbered (B)(2)(o) and adds “and communicated”
Section IV(B)(2)(n)	New section “Inappropriate use of technology (e.g., bullying, harassing, or intimidating other students or district employees, plagiarizing copyrighted materials, and accessing inappropriate websites)”
Section IV(B)(3)(b)	Deletes “effects” and adds “impose”
Section IV(B)(3)(c)	New wording “The administrator may refer the student to the appropriate intervention team to establish behavioral management strategies (e.g., restorative justice, counseling, service learning projects) and propose the appropriate disciplinary action”
Section IV(B)(3)(d)	Former (B)(3)(c) is renumbered (B)(3)(e)
Section IV(B)(3)(d)	New wording “If the misconduct appears to rise to a level of criminality, the administrator must refer the matter to the School Resource Officer or other local law enforcement authorities”
Section IV(B)(4)(i)	Deletes “an” and adds “and communicated”
Section IV(C)(1)	Adds “the School Resource Officer or other” and “during”; adds a hyphen
Section IV(C)(2)(i)	Adds “by law and/or”
Section IV(C)(2)(k)	New section and adds “Illegal use of technology (e.g., communicating a threat of a destructive device, weapon, or event with the intent of intimidating, threatening, or interfering with school activities and transmitting sexual images of minors)”
Section IV(C)(3)(a)	Deletes “an” and adds “a criminal” and “the administrator must contact the School Resource Officer or local law enforcement authorities immediately”; deletes “should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student”
Section IV(C)(3)(b)	New section “An administrator should notify the student’s parent or guardian as soon as possible”
Section IV(C)(3)(b)	Renumbered (C)(3)(c), and adds “An administrator should impose the appropriate disciplinary action”; deletes “A parent or guardian should be notified as soon as possible”

Section IV(C)(3)(c)	Former (C)(3)(c) deleted
Section IV(C)(3)(e)	Changes “procedures” to “incident”; adds “in accordance with district policy”
Section IV(D)	Former paragraph (D) has been renumbered (D)(1), and adds “or”; deletes “or aggravating”, and adds “excluding criminal conduct”. A second section, (D)(2), has been added and states “A local school board may confer upon the appropriate administrator the authority to consider aggravating circumstances which may exist in a particular case of misconduct or criminal conduct. Such circumstances should be considered in determining the most appropriate sanction to be used”
Section VI(A)(4)	Delete
Section VI(A)(5–8)	Renumbered (4–7)
Section VI(A)(8)	Add “as approved and communicated by the local school authorities”
Section VI(B)	Replace current language with “Rules of student conduct are required by state and federal law to be reasonable exercises of the local school board’s authority in pursuance of legitimate educational and related functions and must not infringe upon students’ constitutional rights”

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on October 11, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Sabrina Moore, Director, Office of Student Intervention Services, Division of Federal, State, and Community Resources, 1429 Senate Street, Suite 805, Columbia, SC 29201 or by e-mail to smoore@ed.sc.gov on or before 5:00 pm on September 26, 2016.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-279.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

Purpose: The proposed amendments will incorporate the recommendations of the Safe Schools Taskforce, established by State Superintendent of Education Molly M. Spearman.

Legal Authority: 1976 Code Sections 59-5-60, 59-5-65, and 59-59-10 et seq.

Plan for Implementation: The proposed amendments would be incorporated within R.43-279 upon publication in the State Register as a final regulation.

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

The proposed changes will improve the consistency of language used by educators and law enforcement officials and clarify the types of infractions associated with each level of misconduct and the range of acceptable consequences or sanctions.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the school districts. The proposed amendments will benefit students, schools, districts, and the state by providing increased guidance and clarity to student disciplinary procedures.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation has no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

The proposed changes are designed to promote more consistent discipline practices statewide by reducing the amount of subjectivity involved in discipline decisions.

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. 4658

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

43-80. Operation of Public Pupil Transportation Services.

Preamble:

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.

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.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on May 27, 2016.

Section-by-Section Discussion

Entire Document	Cleanup has been 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.
Section N	Renumbered as “XIV”, see 4 th paragraph, Certificate A: replaces “any school bus” with “school buses”.
Section N	Renumbered as “XIV”, see 6 th paragraph, Certificate C: adds the word “only”.
Section N	Renumbered as “XIV”, see 7 th paragraph, Certificate C, replaces “Certificate categories B and C are” with “Each certificate category is”.
Section N(8)	Renumbered as “XIV(H)” changes “3 through 7” to “C. through G.”.
Section N(8)(1)	Renumbered as “XIV(H)(1)” adds “Commercial—” after the heading “Certificate-A”, and replaces the “period” after the word “following” with a “colon”.
Section N(8)(1)(a)	Renumbered as “XIV(H)(1)(a) replaces “Commercial Driver’s License” with the “CDL” acronym and adds “to qualify for issuance” at the end of the section.
Section N(8)(2)	Renumbered as “XIV(H)(2)” adds new text about the new requirements for a Certificate-A Non-Commercial and adds sub sections (a–b). Old section “N(8)(2)” is renumbered as “XIV(H)(3)”, adds “—” after the heading “Certificate-B Commercial”, and replaces the “period” after the word “following” with a “colon”.
Section N(8)(3)	Renumbered as “XIV(H)(4)” adds “—” after the heading “Certificate-B Non-Commercial” and replaces the “period” after the word “following” with a “colon”.
Section N(8)(4)	Renumbered as “XIV(H)(5)” adds “—” after the heading “Certificate-C Commercial”, and replaces the “period” after the word “following” with a “colon”.
Section N(8)(5)	Renumbered as “XIV(H)(6)” adds “—” after the heading “Certificate-C Non-Commercial”, and replaces the “period” after the word “following” with a “colon”.
Section N	Renumbered as “XIV”, delete final two paragraphs in Section N.

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Section P Renumbered "XVI". In the April 4, 2009, regulation Section P was moved to Section S. The information in Section P should have been deleted and replaced with information concerning operational stop-arms on all state-owned buses. This deletion and addition will correct this error.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on October 11, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments to the regulation will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to 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 on or before 5:00 p.m. on September 26, 2016.

Preliminary Fiscal Impact Statement:

No additional funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred by the state and its political subdivisions in complying with the proposed revisions to Regulation 43-80, Section N.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-80. Operation of Public Pupil Transportation Services.

Purpose: Regulation 43-80 establishes the function and operation student transportation services.

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

Plan for Implementation: The proposed amendments will be incorporated in Regulation 43-80 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner as the existing regulation. District personnel will be informed of the revised regulation through electronic correspondence.

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

South Carolina Code of Laws Section 59-67-470 establishes criteria for selecting and employing school bus drivers and 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. The proposed amendments add an additional certificate classification sub-category which will provide districts with an option for certifying drivers to operate a Full-Functional School Bus which does not require a commercial driver's license to operate.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed amendments result in any increased cost to the business community.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed revisions have no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or on public health if the proposed revisions are not implemented.

Statement of Rationale:

Regulation 43-80, Section N details the training/testing processes and establishes different classifications of school bus driver certificates. The proposed amendments offer districts greater flexibility in certifying drivers to operate school buses.

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. 4659

STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 5-7-12, 16-17-420, 59-5-60, and 59-5-65

Preamble:

The State Board of Education proposes to create R.43-210, to establish a definition of “school resource officers,” along with expectations, roles, and procedures associated with these individuals.

Notice of Drafting for the proposed new regulation was published in the *State Register* on June 24, 2016.

Section-by-Section Discussion

43-210. New regulation.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on October 11, 2016, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed new regulation will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link <http://ed.sc.gov/scdoe/assets/File/policy/state-board/Regulations/RegReviewedbySBE16-17.pdf>.

Written comments should be submitted to Sabrina Moore, Director, Office of Student Intervention Services, Division of Federal, State, and Community Resources, 1429 Senate Street, Suite 805, Columbia, SC 29201 or by e-mail to smoore@ed.sc.gov on or before 5:00 pm on September 26, 2016.

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Preliminary Fiscal Impact Statement:

No additional state funding is requested. The South Carolina Department of Education estimates that no additional costs will be incurred in complying with the proposed revisions to R.43-210.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: School Resource Officers.

Purpose: At the recommendation of the Safe Schools Taskforce, established by the State Superintendent of Education, Molly M. Spearman, this regulation is designed to clarify the definition of “school resource officers,” along with expectations, roles, and procedures associated with these individuals.

Legal Authority: 1976 Code Sections 5-7-12, 16-17-420, 59-5-60, and 59-5-65.

Plan for Implementation: The proposed new regulation would be incorporated upon publication in the State Register as a final regulation.

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

Currently, the role of and expectations associated with school resource officers vary among districts. This regulation is designed to improve the uniformity of the roles and expectations of school resource officers in schools statewide.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the state or its political subdivisions, nor will the proposed new regulation result in any increased cost to the school districts. The proposed new regulation will benefit students, schools, districts, and the state.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation has no effect on the environment or on public health.

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

There will be no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

This regulation is designed to improve the uniformity of the roles and expectations of school resource officers among schools statewide.

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. 4660
DEPARTMENT OF REVENUE
 CHAPTER 117
 Statutory Authority: 1976 Code Sections 4-37-30 and 12-4-320

Preamble:

The South Carolina Department of Revenue is considering adding SC Regulation 117-338 to provide guidance to counties that adopt the local transportation 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 local transportation sales and use tax and is authorized to promulgate regulations.

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 that may be paid from the revenue derived from the tax. The proposed regulation would approve a safe harbor standard that defines eligible costs as those costs that would be capitalized into a specific transportation-related project under the principles of Section 263A of the Internal Revenue Code. This safe harbor standard, however, is modified to allow certain reasonable costs incurred for the dissemination of information to the public, community outreach, and public relations, provided that such costs are related to a specific transportation-related project and are consistent with the purpose stated in the county’s imposition ordinance and Chapter 37, Title 4. In lieu of the standard incorporating the principles of Section 263A, a county would be able to request the use of an alternative standard for Department approval.

Ineligible costs include, but are not limited to, costs incurred for training, establishment or support of programs to benefit constituents or persons that are not directly related to a specific transportation-related project, or excessive amounts not based on a competitive bidding arrangement.

Section-by-Section Discussion

117-338. Local Transportation Sales and Use Tax – Eligible Costs.

This proposal adds SC Regulation 117-338 to provide guidance to counties that adopt the local transportation sales and use tax under Chapter 37, Title 4, to finance the costs of highways, roads, streets, bridges, and other transportation-related projects.

Under this proposal, a county imposing the local transportation sales and use tax shall adopt a reasonable standard to be applied in determining eligible costs that may be paid from the revenue derived from the tax. The Department has approved a safe harbor standard that defines eligible costs as those costs that would be capitalized into a transportation-related project under the principles of Section 263A of the Internal Revenue Code. This safe harbor standard, however, is modified to allow certain reasonable costs incurred for the dissemination of information to the public, community outreach, and public relations, provided that such costs are related to a specific transportation-related project and are consistent with the purpose stated in the county’s imposition ordinance and Chapter 37, Title 4.

In lieu of the standard incorporating the principles of Section 263A of the Internal Revenue Code, a county may request the use of an alternative standard for Department approval. The alternative standard must be justifiable, reflect the public purpose of the county’s imposition ordinance and Chapter 37, Title 4, and be reasonable in the type and amount of eligible costs. If the Department denies the county’s alternative standard proposal, the county may appeal the denial.

Ineligible costs include, but are not limited to, costs incurred for training, establishment or support of programs to benefit constituents or persons that are not directly related to a specific transportation-related project, or excessive amounts not based on a competitive bidding arrangement.

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The Notice of Drafting was published in the *State Register* on May 27, 2016.

Notice of Public Hearing and Opportunity for Public Comment:

All comments concerning this proposal should be mailed to the following address by 5:00 p.m. on Monday, September 26, 2016: S.C. Department of Revenue, Legislative Services - Mr. Meredith Cleland, P.O. Box 125, Columbia, South Carolina 29214.

The S.C. Department of Revenue has scheduled a public hearing before the Administrative Law Court in the Edgar Brown Building (Suite 224) on the Capitol Complex (1205 Pendleton Street) in Columbia, South Carolina for Tuesday, October 25, 2016 at 10:00a.m. if the requests for a hearing meet the requirements of Code Section 1-23-110(A)(3). The public hearing, if held, will address a proposal by the Department to add SC Regulation 117-338 to provide guidance to counties that adopt the local transportation 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 will be asking the Administrative Law Court, in accordance with S.C. Code Ann. Section 1-23-111 (2005), to issue a report that the proposal to add the regulation is needed and reasonable.

Preliminary Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this proposed regulation.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: For 117-338: Local Transportation Sales and Use Tax – Eligible Costs.

Purpose: To add SC Regulation 117-338 to provide that a county imposing the local transportation sales and use tax under Chapter 37, Title 4, adopt a reasonable standard in determining eligible costs that may be paid from the revenue derived from the local transportation sales and use tax.

Legal Authority: Code Sections 12-4-320 and 4-37-30.

Plan for Implementation: After approval by the General Assembly and publication in the State Register, the regulation would apply to all contracts and agreements entered into on or after July 1, 2018, for any transportation-related project authorized under Chapter 37, Title 4.

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

The proposal to add SC Regulation 117-338 is needed to ensure that counties that adopt the local transportation sales and use tax under Chapter 37, Title 4 adopt a reasonable standard for determining eligible costs that may be paid from the revenue derived from the local transportation sales and use tax. The proposal is reasonable in that the Department's safe harbor standard incorporates the principles of Internal Revenue Code Section 263A, which are well known and documented through Treasury regulations and other material published by the Internal Revenue Service. The proposal is also reasonable because it allows counties to submit an alternative standard for review and approval by the Department.

DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not have an impact on state or local political subdivisions expenditures. Promulgation of this regulation will benefit the State and taxpayers by ensuring that the county and public have clarity in determining eligible costs that may be paid from the revenue derived from the local transportation sales and use tax authorized under Chapter 37, Title 4.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The purpose of adding SC Regulation 117-338 is to provide guidance to counties that adopt the local transportation sales and use tax under Chapter 37, Title 4, to finance the costs of highways, roads, streets, bridges, and other transportation-related projects. The proposal to add SC Regulation 117-338 is needed to ensure that counties adopting the local transportation sales and use tax under Chapter 37, Title 4 adopt a reasonable standard for determining eligible costs that may be paid from the revenue derived from the local transportation sales and use tax. The proposal is reasonable in that the Department's safe harbor standard incorporates the principles of Internal Revenue Code Section 263A, which are well known and documented through Treasury regulations and other material published by the Internal Revenue Service. The proposal is also reasonable because it allows counties to submit an alternative standard for review and approval by the Department.

Text:

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

36 EMERGENCY REGULATIONS

Filed: August 3, 2016 12:58pm

Document No. 4654

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 1-23-130 and 44-29-150 through -170

61-22. The Evaluation of School Employees for Tuberculosis.

Emergency Situation:

Section 44-29-150 of the South Carolina Code of Laws provides that “[n]o person will be initially hired to work in any public or private school, kindergarten, nursery or day care center for infants and children until appropriately evaluated for tuberculosis according to guidelines approved by the Board of Health and Environmental Control.” In addition, section 44-29-160 requires that “[a]ny person applying for a position in any of the public or private schools, kindergartens, nurseries, or day care centers for infants and children of the State shall, as a prerequisite to employment, secure a health certificate from a licensed physician certifying that such person does not have tuberculosis in an active stage.” In furtherance of these statutory requirements, the South Carolina Department of Health and Environmental Control (“DHEC” or the “Department”) first promulgated Regulation 61-22 effective May 22, 1981, setting forth guidance for the evaluation of school employees for tuberculosis. Except as discussed below, DHEC’s last revision to Regulation 61-22 occurred in 1986 (the “Prior Regulation”).

In 2015, DHEC initiated the required statutory process to amend the Prior Regulation. DHEC submitted proposed revisions to the S.C. General Assembly on January 25, 2016, and the revised Regulation 61-22 (the “Revised Regulation”) took effect as law by publication as Document No. 4616 in the S.C. State Register, Volume 40, Issue 6, on June 24, 2016.

DHEC recognizes that the short time period between adoption of the Revised Regulation and the start of the new school year will create significant hardships for schools, nurseries and day cares in meeting the Revised Regulation’s new requirements. Consequently, DHEC has determined that there exists the real likelihood that the new regulatory requirements cannot be implemented before school begins, which places the public’s welfare in imminent peril. To alleviate strain on school, nursery and day care operations, and to eliminate risk to the public’s welfare, DHEC finds the enactment of this emergency regulation necessary.

Through this emergency regulation, DHEC will toll the implementation of the Revised Regulation and reinstate the Prior Regulation, thereby enacting requirements both protective of public health and attainable with respect to compliance.

Text:

61-22. The Evaluation of School Employees for Tuberculosis.

(Statutory Authority: 1976 Code Sections 44-29-150, 44-29-160, 44-29-170)

(Public or Private School, Kindergarten, Nursery or Day Care Center)

I. INTRODUCTION

In April, 1979, the South Carolina General Assembly amended Section 44-29-150 and Section 44-29-160 of the 1976 Code of Laws pertaining to evaluation of school employees for tuberculosis. Section 44-29-150 authorizes the Department of Health and Environmental Control to establish guidelines for the evaluation of

school employees for tuberculosis as required by the law. The amended law and the guidelines modernize the approach to screening for tuberculosis and take into account contemporary scientific and epidemiologic principles. Under the amended law and the guidelines, most school employees will need to be screened for tuberculosis only one time and will not be required to be evaluated annually. This selective screening policy, based on epidemiologic information, is combined with a policy concerning preventive treatment of tuberculosis infection. These policies will afford children greater protection against exposure to tuberculosis in the school environment than do previous policies.

II. RATIONALE

Tuberculin skin testing and preventive treatment are emphasized rather than x-ray screening for the following reasons:

A. Most individuals who are infected with living tubercle bacilli have normal chest x-rays. Most of these same individuals, however, are tuberculin reactors, i.e., they have a positive reaction to a tuberculin skin test.

B. Only about 10% of individuals infected with tubercle bacilli will ever develop tuberculosis disease. “Infected” individuals are not sick, are not contagious, and are not counted as cases of tuberculosis. “Diseased” individuals are sick, are often contagious, and are considered to be TB cases. X-rays cannot prevent infection from progressing to disease. This progression may occur years, or decades, after the actual date of infection. X-rays can only reveal tuberculosis disease after it has developed. Preventive treatment of infection with the anti-tuberculosis drug isoniazid (INH) can prevent infection from progressing to disease. These points are summarized in the table below:

	<u>Value for detecting TB infection</u>	<u>Value for detecting TB disease</u>	<u>Value for preventing infection from progressing to disease</u>
Chest x-ray	Limited	Excellent	No value
Tuberculin skin test	Excellent	Limited	No value
Preventive treatment with INH	No value	No value	Excellent

A school employee who is not infected (a non-reactor to the tuberculin skin test) has a negligible chance of ever becoming infected with tubercle bacilli. Therefore, many such employees will not need routine annual screening for tuberculosis. Unusual circumstances in which non-routine screening may be required are discussed below.

Employees who are found to be infected, i.e., reactors to the tuberculin skin test (about 5-10% anticipated), will require a chest x-ray to verify that they do not also have disease. Most (over 99%) will be found to be free of disease, but they retain a lifelong risk of developing disease. INH preventive treatment will be medically recommended for some, but not for all, infected individuals. Employees who are infected, but who either should not or will not take preventive treatment, shall have a notation made in their school personnel record that the individual is considered to be infected with tubercle bacilli and remains at lifelong risk of developing tuberculosis disease. Employees who are found to have current or past tuberculosis disease shall not be allowed to work until the individual receives written certification by a licensed physician that the individual is non-contagious.

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III. DEFINITIONS

For the purpose of the evaluation of school employees for tuberculosis, the following definitions and clarifications shall apply:

- A. School employees: Teachers and all other persons employed by the Board of Trustees.
- B. New employee: Individual being initially hired.
- C. Regular employee: Individual hired in the past.
- D. Tuberculin skin test: Test done by intradermal injection (Mantoux Method) of 5 tuberculin units (5TU) of purified protein derivative (PPD).
- E. Tuberculin reactor: Individual found to have 10mm or more of induration 48-72 hours after intradermal injection of 5TU-PPD.
- F. Non-reactor: Individual found to have less than 10mm of induration 48-72 hours after intradermal injection of 5TU-PPD.
- G. Tuberculosis infection: Presence of living tubercle bacilli in the body of an asymptomatic, non-infectious individual, as diagnosed by the tuberculin skin test.
- H. Tuberculosis disease: Illness, often contagious, usually diagnosed by chest x-ray and culture of tubercle bacilli from sputum.
- I. Preventive treatment with INH: Treatment to prevent tuberculosis disease from developing in tuberculin reactors.
- J. Adequate treatment: Therapy with anti-tuberculosis drugs that is determined to be sufficient for the treatment of infection or disease.
- K. Non-routine screening: Screening that may be required in special circumstances where there is epidemiologic evidence that school employees may have become infected or infectious. Examples of such circumstances are: (1) whenever employees are identified as close contacts of tuberculosis cases; (2) whenever tuberculosis cases are known to have occurred in the school environment; (3) whenever employees are observed to have signs or symptoms suggestive of tuberculosis.

IV. GUIDELINES FOR SCREENING/EVALUATION

- A. Required screening/evaluation:
 - 1. New employees shall have a tuberculin skin test prior to employment.
 - 2. Regular employees with no documented 5TU-PPD tuberculin skin test shall have a tuberculin skin test as a condition for continued employment.
 - 3. Regular employees documented to have been tuberculin reactors to a prior tuberculin skin test shall not be required to have a tuberculin skin test but shall have their records reviewed. If a prescribed course of preventive treatment with INH has been completed, no further evaluation shall be required. If preventive treatment with INH has not been completed, a notation shall be made in their school personnel record on DHEC Form 1420, that the individual is considered to be infected and remains at lifelong risk of developing TB disease.
 - 4. New or regular employees with a history of tuberculosis disease shall have their records reviewed by a licensed physician certifying them as non-infectious, on DHEC Form 1420 to be kept on file in their school personnel record.
- B. Disposition following results of screening/evaluation:
 - 1. New or regular employees found to be non-reactors to a 5TU-PPD tuberculin skin test shall require no further routine annual screening.
 - 2. New or regular employees found to be tuberculin reactors shall have a chest x-ray.

a. If a chest x-ray (and sputum cultures, if necessary) of a tuberculin reactor shows no evidence of current tuberculosis disease, the employee shall be evaluated for preventive treatment with INH.

(i) If INH is medically indicated and if the employee takes INH as prescribed, no further routine annual screening shall be required, except when medically indicated.

(ii) If INH is not medically indicated or if the employee for whom INH is indicated does not take INH preventive treatment, a notation shall be made in the employee's school personnel record on DHEC Form 1420, that the individual is considered to be infected and remains at lifelong risk of developing tuberculosis disease.

b. If a chest x-ray (and sputum cultures, if necessary) of a tuberculin reactor shows evidence of current tuberculosis disease, the employee shall not be allowed to work in any public or private school, kindergarten, nursery or day care center, until written certification by a licensed physician is received stating that the individual is noncontagious. Certification shall be subject to review by the Department of Health and Environmental Control or delegated representatives in county health departments. This provision applies to an employee found to have tuberculosis disease at the time of hiring or at any other time.

3. New employees with a history of tuberculosis disease shall be required to have their records reviewed by a licensed physician certifying them as non-infectious, on DHEC Form 1420, to be kept on file in their school personnel record.

C. Documentation of results of screening/evaluation:

1. Results of the required screening/evaluation and the subsequent disposition for each employee shall be recorded on DHEC Form 1420 as provided for in Section 44-29-170. These forms shall be kept on file by the principal (or the director/administrator) of the public or private school, kindergarten, nursery or day care center of current employment. These forms shall be available for review by representatives of the Department of Health and Environmental Control.

2. If an employee transfers to another public or private school, kindergarten, nursery or day care center, no additional screening/evaluation for tuberculosis shall routinely be required beyond that which is described above, provided the form on file at the place of immediate past employment is submitted to the principal (or the director/administrator) of the public or private school, kindergarten, nursery or day care center of current employment.

D. Non-routine screening:

Regular employees who would otherwise be exempt from routine annual screening may be required to undergo non-routine screening, if there is epidemiologic evidence that such employees may have become infected or infectious. Epidemiologic evidence includes:

- a. Identification of employees as close contacts of tuberculosis cases;
- b. Occurrence of tuberculosis in the school environment;
- c. Observation of signs or symptoms in employees suggestive of tuberculosis.

V. ADDITIONAL INFORMATION AND FORMS

Questions regarding the amended law and regulation may be addressed to personnel of the county health departments or the district offices of the Department of Health and Environmental Control. Questions which

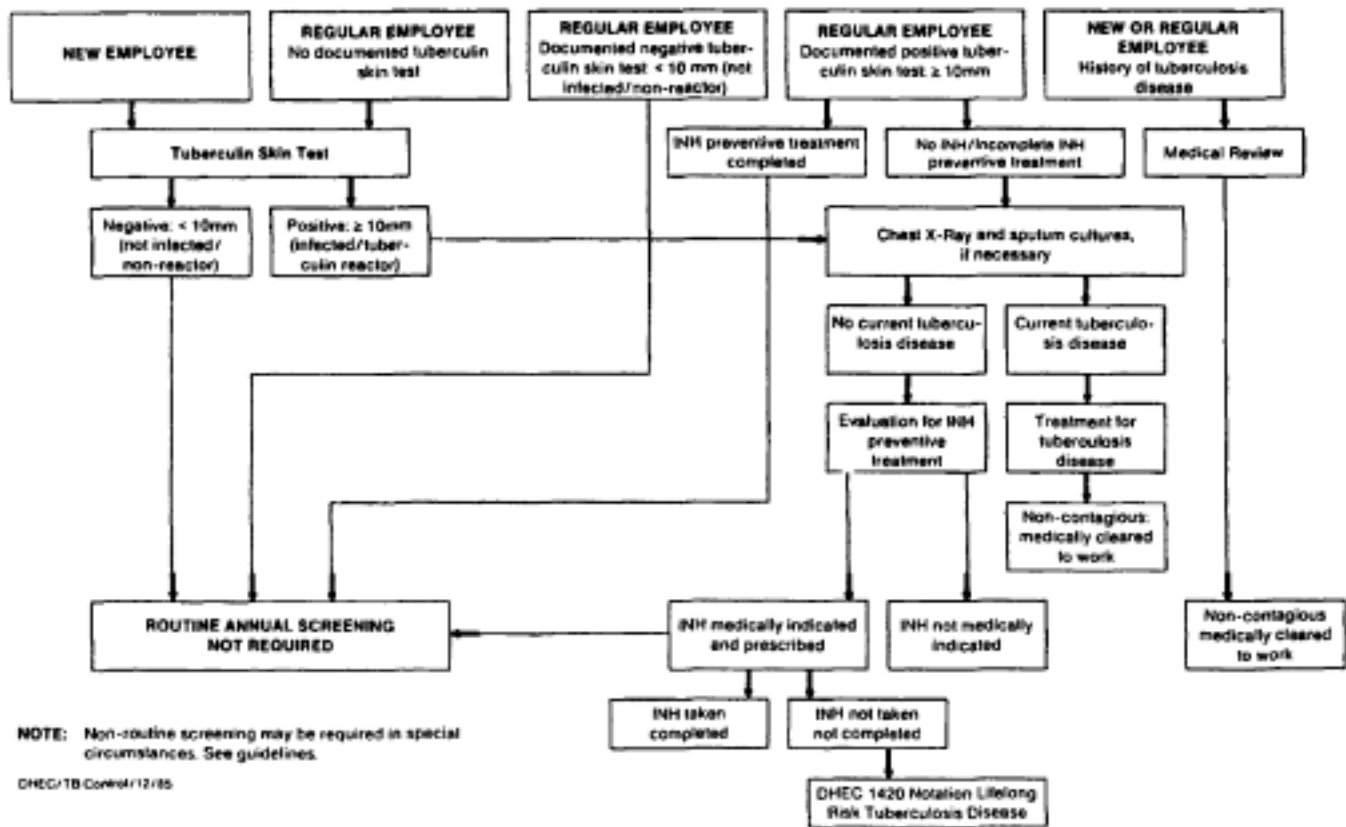
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cannot be resolved at the local level may be referred to the Tuberculosis Control Division, Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201.

Examination and certification may be obtained by school employees from private physicians or from county health departments. County health departments establish schedules for services. Employees should call for an appointment and arrange to have the necessary screening and certification done before the start of a new school year. Certification forms (DHEC 1420) are available, upon request, from the Department of Health and Environmental Control.

A flow chart representation of the guidelines for the screening/evaluation of school employees for tuberculosis follows:

A FLOW CHART REPRESENTATION OF THE GUIDELINES FOR THE SCREENING/EVALUATION OF SCHOOL EMPLOYEES FOR TUBERCULOSIS



VI. EFFECT ON THE “REVISED REGULATION.”

This emergency regulation supersedes any and all provisions of the revised Regulation 61-22 that took effect as law by publication as Document No. 4616 in the S.C. State Register, Volume 40, Issue 6, on June 24, 2016.