SOUTH CAROLINA STATE REGISTER DISCLAIMER

While every attempt has been made to ensure the accuracy of this State Register, the Legislative Council makes no warranties or representations regarding its accuracy or completeness, and each user of this product understands that the Legislative Council disclaims any liability for any damages in connection with its use. This information is not intended for commercial use and its dissemination by sale or other commercial transfer is not authorized, absent a written licensing agreement with the Legislative Council. For further information contact the Legislative Council at 803-734-2145.

SOUTH CAROLINA STATE REGISTER

PUBLISHED BY THE LEGISLATIVE COUNCIL of the GENERAL ASSEMBLY

STEPHEN T. DRAFFIN, DIRECTOR LYNN P. BARTLETT, EDITOR

P.O. BOX 11489 COLUMBIA, SC 29211 TELEPHONE (803) 734-2145

Published July 25, 2003

Volume 27 Issue No.7

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.

2003 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	1/10	2/14	3/14	4/11	5/9	6/13	7/11	8/8	9/12	10/10	11/14	12/12
Publishing Date	1/24	2/28	3/28	4/25	5/23	6/27	7/25	8/22	9/26	10/24	11/28	12/26

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) 734-2145.

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

Subscriptions to the *South Carolina State Register* are available electronically through the South Carolina Legislature Online website at www.scstatehouse.net via an access code, 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 either format is \$95.00. Payment must be made by check payable to the Legislative Council. To subscribe complete the form below and mail with payment. Access codes for electronic subscriptions will be e-mailed to the address submitted on this form.

X-----X

South Carolina State Register Subscription Order Form				
Name	Title			
Firm				
Mailing Address				
Billing Address (if different from mailing address)				
Contact Person(s)	E-mail Address			
Phone Number	Fax Number			
Number of subscriptions: (Cost is \$95 per subscription. Checks payable to: Legislative Council) Electronic Printed				

Mail this form to:

South Carolina State Register
Lynn P. Bartlett, Editor
P.O. Box 11489
Columbia, SC 29211
Talanhama (202) 7244 2145

Telephone: (803) 734-2145

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Status and Leg	rislative Review Expiration Dates	1
	EXECUTIVE ORDERS	
No. 2003-16 No. 2003-17 No. 2003-18	Creating Water Law Review Committee Ordering National Guard for Emergencies for Funeral of Senator Strom Thurmond Establishing Commission on International Cooperation and Agreements	4
	NOTICES	
	STATE BOARD OF her Grants, Doc. No. 2779, State Register, Vol 27, Issue 5, June 27, 2003	6
Certification o	ENVIRONMENTAL CONTROL, DEPARTMENT OF f Need	
Building Code	NSING AND REGULATION, DEPARTMENT OF es Commission uilding Codes	9
	DRAFTING NOTICES	
Certification, l	STATE BOARD OF Defined Program Grades 9-12, Comprehensive Planning, Accreditation Criteria, ation	11
Manufacture, l Soft Drink Bot	ENVIRONMENTAL CONTROL, DEPARTMENT OF Distribution, and Sale of Frozen Dairy Foods and Frozen Dessertsttling Plants	12
	FAIRS, COMMISSION FOR ion of Native American Indian Entities in the State	15
Sale of Beer ar	PARTMENT OF nd Wine, Drive-In/Drive-Thru Establishments Prohibited	

TABLE OF CONTENTS

PROPOSED REGULATIONS

	REGULATION, DEPARTMENT OF	
Occupational Health and	l Safety Review Board	
Document No. 2845	Failure to Appear	17
	EMERGENCY REGULATIONS	
NATURAL RESOURCES, I	DEPARTMENT OF	
Document No. 2846	Non-Game and Endangered Species, Birds, Fish, Reptiles, Amphibians and Mammals, Spotted Turtle Program	19
	FINAL REGULATIONS	
PUBLIC SAFETY, DEPART		
Document No. 2820	Motorist Insurance Identification Database	23

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

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: www.scstatehouse.net

	RAT FINAL	SUBJECT	EXP.	AGENCY
No.	No. Issue		DATE	
2610	SR27-2	In Car Camera Videotaping Equipment	1-23-03	Department of Public Safety
2663	SR27-2	Bonds for Water and Wastewater Utilities	2-09-03	Public Service Commission
2711	SR27-3		2-17-03	Department of Social Services
2726	SR27-3	School Incentive Reward Program	2-23-03	Board of Education
2709 2731	SR27-3 SR27-5	Nonpublic Postsecondary Institutions Diseases and Health documentation	2-25-03 4-15-03	Commission on Higher Education
2727		Witchweed Quarantine	4-15-03	Clemson University Clemson University
2733	SR27-5		4-21-03	LLR: Board of Chiropractic Examiners
2732		Advertising and Solicitation	4-21-03	LLR: Board of Chiropractic Examiners
2712	SR27-5		5-05-03	Department of Social Services
2730 R71	SR27-5	Criminal Justice Academy Training Regulations	5-06-03	Department of Public Safety
2728	SR27-6	Transfer of Duties and Responsibilities	5-13-03	LLR: Board for Barrier Free Design
2738	SR27-6	Examination Fees	5-13-03	LLR: Board of Accountancy
2739	SR27-6 SR27-6	Professional Practices Certification of Need for Health Facilities and Services	5-13-03	LLR: Board of Chiropractic Examiners
2718 2734	SR27-6 SR27-6		5-13-03 5-13-03	Department of Health and Envir Control Department of Health and Envir Control
2740	SR27-6	Elevator Certification, Construction and Inspection Fees	5-13-03	LLR: Office of Elevator and Amusement Ride Safety
2750	SR27-6	Partnerships Among the Schools, Parents, Comm. Business	5-13.03	Board of Education
2749	SR27-6	Basic Skills Assess. Writing Text	5-13-03	Board of Education
2745 R64	SR27-5	Disposition of Textbook Samples After State Adoption Process	5-13-03	Board of Education
2746 R61	SR27-5	Basic Skills Assessment Programs-Kindergarten Objectives	5-13-03	Board of Education
2747 R62	SR27-5	Basic Skills Assessment Program-Readiness Test	5-13-03	Board of Education
2748	SR27-6	Minimum Standards for the Determination of Readiness	5-13-03	Board of Education
2744 R63 2758	SR27-5 SR27-6	Intervention Where Quality of Educ Local Sch Dist is Impaired Statement of Policy, Spec Stds Beaches, Seaward Baseline	5-13-03 5-13-03	Board of Education Department of Health and Envir Control
2759	SR27-6	Activities Allowed Seaward of Baseline	5-13-03	Department of Health and Envir Control
2755	SR27-6		5-13-03	Commission on Higher Education
2756	SR27-6		5-13-03	Commission on Higher Education
2752	SR27-6	South Carolina HOPE Scholarship	5-13-03	Commission on Higher Education
2754	SR27-6	Lottery Tuition Assist Prog for Two-Year Pub and Ind Inst	5-13-03	Commission on Higher Education
2802	SR27-6	Mining Council Fees	5-13-03	Department of Health and Envir Control
2779 2774	SR27-6 SR27-6	Teacher Grants Application for Teaching Credential-Required Documentation	5-13-03 5-13-03	Board of Education Board of Education
2763	SR27-6	Test Security	5-13-03	Board of Education
2768	SR27-6	Requirements for Certification	5-13-03	Board of Education
2767 R22	SR27-4	Code of Conduct	5-13-03	LLR: Board of Nursing
2789 R54	SR27-5	General Retention Schedule for State Colleges and Universities	5-13-03	Department of Archives
2788 R53	SR27-5	General Retention Schedule for School District Records	5-13-03	Department of Archives
2787 R52	SR27-5	General Retention Schedule for Municipal Records	5-13-03	Department of Archives
2757	SR27-6	Controlled Substances	5-13-03	Department of Health and Envir Control
2799 2797	SR27-6 SR27-6	Renewal of Credentials Homebound Instruction	5-13-03 5-13-03	Board of Education Board of Education
2795	SR27-6	Graduations Requirements	5-13-03	Board of Education
2805	SR27-6	Exempt Commercial Policies	5-14-03	Department of Insurance
2737	SR27-6	Wildlife Management	5-14-03	Department of Natural Resources
2798	SR27-6	Charter School Applications	5-14-03	Board of Education
2796	SR27-6	Half-Day Child Development Programs	5-15-03	Board of Education
2803	SR27-6	Neonatal Screening Inborn Metabolic Errors, Hemoglobinopathi		1
2793	SR27-6	Charter Schools Regulations Policy Enf Space Proj. Std. Tidolonds and Coastal Waters	5-27-03 5-28-03	Board of Education Department of Health and Envir Control
2760 2807	SR27-6 SR27-6	Policy, Enf Spec Proj Stds Tidelands and Coastal Waters Alcoholic Liquors	5-28-03	Department of Health and Envir Control Department of Revenue
2781	SR27-6	Tax Regulation Reorganization	5-28-03	Department of Revenue
2809	SR27-6	Income Tax Reorganization	5-28-03	Department of Revenue
2751	SR27-6	Tax Board of Review	5-28-03	Department of Revenue
2784	SR27-6	Licensing Ambulatory Surgical Facilities	5-28-03	Department Health and Envir Control
2780	SR27-6	Administrative Regulation Reorganization	5-28-03	Department of Revenue
2808	SR27-6	Beer and Wine Permits or Alcoholic Liquor Licenses	5-28-03	Department of Revenue
2776	SR27-6	Credential Classification Water Pollution Control Permits	5-29-03	Board of Education
2783	SR27-6	Water Pollution Control Permits	5-29-03	Department of Health and Envir Control

2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

(Subject to Sine Die Revision)

2814 R86	SR27-6	Witchweed Quarantine	6-18-03 Clemson University
2790 R85	SR27-6	Designation of Plant Pests	6-18-03 Clemson University
2791 R87	SR27-6	Plum Pox Virus Quarantine	6-18-03 Clemson University
2819 R74	SR27-6	Hunting in Wildlife Management Areas	7-02-03 Department Natural Resources
2821		Highway Patrol Wrecker Regulations	2-09-04 Department Public Safety
2816		Environmental Protection Fees	2-29-04 Department Health and Envir Control
2810		Fees, Liability Insurance Requirements	2-29-04 LLR: Elevator and Amusement Rides
2824		Environmental Protection Fees	2-29-04 Department of Health and Envir Control
2826		Machines	2-29-04 Department of Revenue
2815		Decisions on a permit, Environmental Protection Fees	2-29-04 Department of Health and Envir Control
2825 R75	SR27-6	X-Rays	7-23-03 Department of Health and Envir Control
2818		Elevator and Amusement Rides, Inspections	3-12-04 LLR: Elevator and Amusement Rides
2820 R177	SR27-7	Motorist Insurance Identification Database Program	8-08-03 Department Public Safety
2830		Subdivision Water Supply and Sewage Treatment/Disposal	3-22-04 Department of Health and Envir Control
2829		Residential Care Facility Administration	3-22-04 LLR: Board of Long Term Health Care Administrators
2828		Burglar Alarm Systems	3-22-04 LLR: Contractors' Licensing Board
2832		Business Enterprise Program	4-10-04 Commission for the Blind

COMMITTEE REQUESTED TO WITHDRAW (120 DAY REVIEW PERIOD TOLLED)

Doc	Date	Subject	AGENCY
No.			
2729	2-04-03	Fees	4-02-03 LLR: Board of Pharmacy
2822	3-26-03	General-Food Stamp Program	6-26-03 Department Social Services

RESOLUTION INTRODUCED TO DISAPPROVE (120 DAY REVIEW PERIOD TOLLED)

Doc	DATE	SUBJECT	AGENCY
No.			
2629	1-29-03	Specific Project Stds for Tidelands & Coastal Waters	1-31-03 Department of Health and Envir Control
2801	2-19-03	Individual Sewage Treatment and Disposal Systems	5-29-03 Department of Health and Envir Control
2800	4-02-03	Environmental Protection Fees	5-20-03 Department of Health and Envir Control
2753	5-08-03	LIFE Scholarship Program	5-13-03 Commission on Higher Education

WITHDRAWN:

Doc	Date	SUBJECT	AGENCY
No.			
2360	8-16-02	LIFE Scholarship	1-15-03 Commission on Higher Education
2792	2-18-03	Career or Technology Centers/Comprehensive High Schools	5-13-03 Board of Education
2823	5-14-03	S C. Patients' Compensation Fund	7-03-03 Department of Insurance

2003-16

WHEREAS, the waters of the State are a finite and valuable natural resource, and an adequate supply of high quality water is essential to the health, safety, welfare and quality of life of the citizens of South Carolina; and

WHEREAS, water is vital for individual, agricultural, industrial, commercial and recreational uses, and is essential for fish and wildlife; and

WHEREAS, the laws and regulations pertaining to the State's water resources should be periodically reviewed to insure that those laws and regulations allow for the effective management and stewardship of this critical natural resource; and

WHEREAS, the Board of the South Carolina Department of Natural Resources has requested the establishment of a water law review committee to assess the State's water laws.

NOW, THEREFORE, I do hereby establish the Governor's Water Law Review Committee (the Committee").

- 1. The Committee shall conduct a comprehensive review of South Carolina's water laws and recommend changes that would improve those laws.
- 2. As part of its review of South Carolina's existing water laws, the Committee shall receive testimony from the public and interested parties.
- 3. The Committee shall also evaluate whether South Carolina should enter into compacts with neighboring states regarding shared water resources.
- 4. The Committee shall be comprised of members appointed by the Governor, including a Professor of the University of South Carolina School of Law who shall serve as its chairman.
- 5. The Committee shall be authorized in the furtherance of its mission to hold public hearings and take such other actions as it deems necessary and advisable.
- 6. The Committee shall release a report of its findings by January 13, 2004, and issue additional reports as directed by the Governor.
- 7. The Governor's Office and the Office of the Executive Director, Budget and Control Board, shall provide staff support as necessary to assist the Committee in carrying out the directives of this Executive Order. The Committee may also receive staff support and technical assistance from the Department of Natural Resources and the Department of Health and Environmental Control, as their respective boards and the Committee deem appropriate.

This Order shall take effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 24th DAY OF JUNE, 2003

MARK SANFORD Governor

4 EXECUTIVE ORDERS

2003-17

WHEREAS, the State of South Carolina expects an unusually large number of citizens to congregate at the State House during the period of June 27 through July 1, 2003, for funeral services honoring United States Senator Strom Thurmond; and

WHEREAS, the City of Columbia is expecting extreme traffic conditions which will cause these citizens additional undue stress; and

WHEREAS, the South Carolina National Guard is prepared to provide the personnel and equipment necessary to assist these citizens.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina, I hereby direct the Adjutant General to place on state duty South Carolina National Guard personnel and equipment, as deemed necessary, to fulfill the mission in support of the State's citizens. National Guard personnel and equipment deployment should be coordinated through the Emergency Preparedness Division.

This Order shall take effect immediately and is retroactive to June 27, 2003.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 30th DAY OF JUNE, 2003

MARK SANFORD Governor

2003-18

WHEREAS, it is commonly recognized by the political leadership of the State of South Carolina, as well as by private and academic opinion-makers, that global cooperation is crucial to the social and economic vitality of South Carolina; and

WHEREAS, South Carolina has the second highest percentage of citizens working for internationally owned companies, and with a presence of over 500 foreign companies in the state employing an excess of 93,000 South Carolinians, the desire of state agencies, educational institutions, businesses and citizens to participate in international activities is increasing at an exponential rate; and

WHEREAS, many of South Carolina's universities and colleges are already involved in the internationalization of their academic community, including student and faculty exchanges; and

WHEREAS, many states are becoming increasingly aware of the opportunities and advantages for its businesses, citizens, and governments in establishing formal partnerships and a strong working dialogue with international partners, evidenced by the fact that many American states have offices for the conducting of international activities;

NOW, THEREFORE, **BE IT RESOLVED**, I do hereby establish the South Carolina Commission on International Cooperation and Agreements ("Commission"). The objectives of the Commission shall be:

1. To heighten public awareness of South Carolina's international role;

- 2. To foster cooperative relationships between South Carolina and foreign states;
- 3. To advocate partnerships between business, government, education, cultural and other organizations and our foreign partners;
- 4. To establish mechanisms to engage larger circles of South Carolinians in discussion of our international challenges and opportunities; and
- 5. To manage sister state relationships in these areas.

The Commission shall be initially composed of nine members consisting of the following:

- 1. The President Pro Tempore of the Senate or his/her designee;
- 2. The Speaker of the House of Representatives or his/her designee;
- 3. The Director of the SC Budget and Control Board or his/her designee;
- 4. The Secretary of the SC Department of Commerce or his/her designee; and
- 5. Five additional members appointed by the Governor, one of whom shall serve as Chair.

The Commission members shall develop and adopt an organizational and administrative protocol to provide for an enduring structure in accordance with the objectives of this Order.

This Order shall take effect immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 2nd DAY OF JULY, 2003

MARK SANFORD Governor

STATE BOARD OF EDUCATION ERRATA

The State Board of Education has made the following correction to Doc. No. 2779, R 43-201.1, Teacher Grants, published in the State Register, Vol. 27, Issue 5, June 27, 2003. Under Section VII(A), the Office of School Leadership Federal Programs has been corrected to read Office of Curriculum and Standards.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication July 25, 2003, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Dorchester County

Addition of a 1.5 Tesla Magnetic Resonance Imaging (MRI) unit.

Summerville Medical Center Summerville, South Carolina Project Cost: \$1,935,436

Affecting Florence County

Provision of Positron Emission Tomography (PET) imaging services for one (1) day per week.

Carolinas Hospital System Florence, South Carolina Project Cost: \$290,000

Affecting Greenwood County

Construction of a new patient tower to replace the existing patient tower with no change in the licensed bed capacity.

Self Regional Healthcare Greenwood, South Carolina Project Cost: \$52,632,053

Affecting Lancaster County

Conversion of 23 substance abuse beds to acute care beds resulting in 168 acute care, 12 substance abuse and 14 nursing home beds.

Springs Memorial Hospital Lancaster, South Carolina Project Cost: \$1,981,200

Affecting Orangeburg County

Replacement of the existing 0.2 T MRI with a 1.0 T MRI, discontinue the use of the mobile MRI, and replacement of the existing single slice CT scanner with a multi-slice CT scanner.

Advanced Diagnostic Imaging, LLC

Orangeburg, South Carolina

Project Cost: \$1,712,661

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning July 25, 2003. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Allendale, Bamberg, Barnwell and Hampton Counties

Provision of mobile Magnetic Resonance Imaging (MRI) services to Allendale County Hospital, Bamberg County Hospital, Barnwell County Hospital, and Hampton Regional Medical Center.

Low Country Health Care Network Bamberg, South Carolina Project Cost \$955,036

Affecting Charleston County

Construction of a 20-bed inpatient hospice facility. The Hospice House of Charleston Charleston, South Carolina Project Cost: \$3,700,527

Affecting Dorchester County

Construction of an ambulatory surgery center with three (3) operating rooms and two (2) endoscopy procedure rooms (ORs) restricted to gastroenterology procedures only.

Summerville Surgery Center Summerville, South Carolina Project Cost: \$5,368,050

Affecting Greenville County

Relocation of the existing ambulatory surgery center, which includes two (2) operating rooms, with no change in services.

Patewood Surgery Center, LLC Greenville, South Carolina Project Cost: \$2,886,317

Affecting Lancaster County

Construction of an ambulatory surgery center with four (4) operating rooms and one (1) licensed cystoscopy procedure room (OR) to be located near the intersection of Highways US 521 and SC 160 in the Indian Land Community.

SouthCross Surgery Center Lancaster County, South Carolina Project Cost: \$11,243,467

Affecting Orangeburg County

Replacement of the existing 0.2T MRI with a 1.0T MRI, discontinue the use of the mobile MRI, and replacement of the existing single slice CT scanner with a multi-slice CT scanner.

8 NOTICES

Advanced Diagnostic Imaging, LLC Orangeburg, South Carolina Project Cost: \$1,712,661

Affecting Richland County

Replacement of two (2) single-slice Computed Tomography (CT) scanners with two (2) multi-slice CT scanners.

Palmetto Health Richland Columbia, South Carolina Project Cost: \$1,961,250

PUBLIC NOTICE AFFECTING LEXINGTON COUNTY

The Bureau of Health Facilities and Services Development, S.C. Department of Health and Environmental Control will conduct a public hearing regarding the Certificate of Need application for Midlands Endoscopy Center. This application is for the construction of an ambulatory surgery center with 2 licensed endoscopy procedure rooms (ORs) to be located at the Irmo Medical Center on Woodrow Street in Irmo, SC.

The public hearing will be held on Monday, August 4, 2003 at 2:00pm in the second floor conference room of the Heritage Building, 1777 St. Julian Place, Columbia, South Carolina.

The public is invited to attend, and an opportunity shall be provided for any person to present information. No decision will be made at the hearing, but the Department shall make a decision within 60 days from the date of the public hearing.

Comments on this proposal are solicited and may be presented at the public hearing or in writing until 5:00pm on August 4, 2003, to Mr. Rodney Bowman, Bureau of Health Facilities and Services Development, S.C. Department of Health and Environmental Control, 2600 Bull St., Columbia, SC 29201. FAX: 803-545-4579.

PUBLIC NOTICE AFFECTING RICHLAND COUNTY

The Bureau of Health Facilities and Services Development, S.C. Department of Health and Environmental Control will conduct a public hearing regarding the Certificate of Need application for South Carolina Medical Endoscopy Center. This application is for the replacement and relocation of the existing ambulatory surgery center and the addition of 2 licensed endoscopy procedure rooms (ORs) for a total of 4 licensed endoscopy procedure rooms (ORs). The proposed new site for the replacement facility is 526 Hampton Street in Columbia, SC.

The public hearing will be held on Monday, August 4, 2003 at 10:00am in the second floor conference room of the Heritage Building, 1777 St. Julian Place, Columbia, South Carolina.

The public is invited to attend, and an opportunity shall be provided for any person to present information. No decision will be made at the hearing, but the Department shall make a decision within 60 days from the date of the public hearing.

Comments on this proposal are solicited and may be presented at the public hearing or in writing until 5:00pm on August 4, 2003, to Mr. Rodney Bowman, Bureau of Health Facilities and Services Development, SC Department of Health and Environmental Control, 2600 Bull St., Columbia, SC 29201. FAX: 803-545-4579.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act. Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and individuals listed below, please submit your comments in writing, no later than August 25, 2003 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Underground Storage Tank Program
Attn: Barbara Boyd
2600 Bull Street
Columbia, SC 29201

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

<u>Class II</u>

Mactec Engineering & Consulting – WilmingtonHiTech Labs Enterprises
Palmetto Consulting Associates, Inc. IMS Environmental Services
Qore Property Sciences - Duluth
Shaw Environmental, Inc. - Greenville

DEPARTMENT OF LABOR, LICENSING AND REGULATION BUILDING CODES COMMISSION

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 6-9-60(C) of the 1976 Code of Laws of South Carolina, as amended, the South Carolina Building Codes Council intends to review and adopt the following building codes for use within the state:

Mandatory codes will include: International Building Code, 2003 Edition; International Residential Code, 2003 Edition; International Fire Code, 2003 Edition; International Plumbing Code, 2003 Edition; International Mechanical Code, 2003 Edition; International Fuel Gas Code, 2003 Edition; International Energy Conservation Code, 2003 Edition.

Permissive codes will include: International Property Maintenance Code, 2003 Edition; International Existing Building Code, 2003 Edition.

10 NOTICES

The Council specifically requests comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Gary Wiggins, Board Administrator, at 110 Centerview Drive, 2nd Floor, Columbia, South Carolina, 29211-1329, (803) 896-4620.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1990) and 59-5-65 (1990 and Supp. 2002)

Notice of Drafting:

The State Board of Education proposes to amend regulations governing acceptable areas of certification, the defined program grades 9-12, comprehensive planning, accreditation criteria, and deregulation.

Interested persons may submit comments to Dr. Leonard McIntyre, Deputy Superintendent, Division of Professional Development and School Quality, State Department of Education, 1429 Senate Street, Room 1102, Rutledge Building, Columbia, South Carolina 29201. To be considered, comments must be received no later than 5:00 p.m. on August 25, 2003, the close of the drafting comment period.

Synopsis:

The State Board of Education proposes to amend the following regulations.

- 1. 43-130, Accreditation Standards Filed
 Amendments to update the acceptable areas of certification to hold positions in district office operations or schools. Changes are also being made to the acceptable areas of certification to teach specific courses in the schools.
- 2. 43-234, Defined Program Grades 9-12
 Amendments to add mathematics for the Technologies 3 as a course required to be offered and to delete the reference to the STAR diploma.
- 3. 43-261, District & School Comprehensive Planning Amendments to reflect provisions of the Education Accountability Act of 1998.
- 4. 43-300, Accreditation Criteria
 Amendments to include student academic performance in the criteria for accreditation.
- 5. 43-303, Flexibility through Deregulation Amendments to allow school flexibility through exemptions from statute and regulation under new criteria in accordance with the Education Accountability Act of 1998.
- 6. 43-209, Nonprofessional/Paraprofessional Personnel Positions, Qualifications, and Duties. Amendments to reflect changes in qualifications of paraprofessionals.
- 7. 43-259, Graduation Requirements
 Amendments to delete the obsolete twenty-unit requirement for a state high school diploma and other changes as needed.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Sections 39-37-120, 44-1-140

Notice of Drafting:

The Department of Health and Environmental Control proposes to substantially amend R.61-36, *Manufacture, Distribution, and Sale of Frozen Dairy Foods and Frozen Desserts*. Interested persons should submit comments to Joe Neely, Division of Food Protection (Dairy Foods and Soft Drink Protection Program), Bureau of Environmental Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201-1708. All comments must be received by 5:00 p.m. on August 25, 2003, the close of the drafting comment period. Comments submitted in response to the Notice of Drafting published on June 27, 2003 will also be considered and need not be resubmitted.

Synopsis:

R.61-36 ensures that consumers are receiving safe, high quality frozen dairy foods and frozen desserts. The Regulation was amended last prior to 1968. The proposed amendments will bring the Regulation in compliance with the latest Frozen Dessert guidelines of the United States Public Health Service, Food and Drug Administration and assure consumers that the latest sanitation requirements are being met by the dairy industry. Amendments will also insure that the regulation complies with the requirements of the South Carolina Administrative Procedures Act, is compatible with R.61-34.1, *Pasteurized Milk and Milk Products*, and will strengthen the Department's enforcement capability. The Department may make other related editorial and stylistic changes as necessary to improve the overall quality of the regulation.

This amendment will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-32, *Soft Drink Bottling Plants*. Interested persons should submit comments to Chris Saul, Division of Food Protection (Dairy Foods and Soft Drink Program), Bureau of Environmental Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201-1708. All comments must be received by 5:00 p.m. on August 25, 2003, the close of the drafting comment period. Comments submitted in response to the Notice of Drafting published on June 27, 2003 will also be considered and need not be resubmitted.

Synopsis:

R.61-32 ensures that consumers are receiving safe, high quality bottled water products. The proposed amendments will bring the Regulation into compliance with the latest requirements set forth by the United States Food and Drug Administration (FDA) regarding bottled water manufacturing sanitation practices. These latest requirements have already been implemented by the Department under the authority of the FDA; these amendments will incorporate these requirements into South Carolina's regulation. Amendments will also ensure that the regulation complies with the requirements of the South Carolina Administrative Procedures Act, and will strengthen the Department's enforcement capability. The Department may also make other related editorial and stylistic changes as necessary to improve the overall quality of the regulation. The title of the regulation will be revised.

This amendment will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-96-10, et seq. 44-96-260, 44-96-290, 44-96-300, 44-96-320, 44-96-325, 44-96-330, 44-96-350, 44-96-380, 44-96-390, 44-96-400, 44-96-410, 44-96-440, 44-96-450, 44-96-460, and 44-96-470.

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-107.11 Solid Waste Management: Construction, Demolition, and Land-clearing Debris Landfills. Interested persons may submit their views by writing to Art Braswell at S.C. Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments must be received no later than 5:00 p.m. on August 25, 2003, the close of the drafting period.

This Notice supersedes the Notice of Drafting of an amendment to R.61-107.11 published on February 22, 2002. Comments received on the previous notice of drafting will be considered in the drafting of this amendment.

Synopsis:

As a means of stream lining Department regulations, the proposed amendment to R.61-107.11 will rename the regulation from "Construction, Demolition, and Land-clearing Debris Landfills" to "Solid Waste Landfills and Structural Fill" and will encompass all solid waste landfills and structural fill activities. This amended regulation will supersede R.61-107.13 SWM: Municipal Solid Waste Incinerator Ash Landfills, R.61-107.16 SWM: Industrial Solid Waste Landfills, and R.61-107.258 SWM: Municipal Solid Waste Landfills, thus reducing the number of solid waste regulations that address land filling from four (4) regulations to one (1) regulation. Also, Title 40 of the Code of Federal Regulations, Part 258, (40CFR258) Criteria for Municipal Solid Waste Landfills was amended since the State's municipal solid waste landfill regulation was amended and this amendment will include the updates to the 40CFR258. Also, the South Carolina Solid Waste Policy and Management Act was amended in 2000 and this amendment will reflect those changes as appropriate.

This will be a comprehensive amendment that will update, streamline and clarify requirements addressing disposal of solid waste. In this regulation "clean-up," outdated time frames will be deleted, and definitions will be added, and amended as appropriate. One goal of this amendment is make the solid waste disposal requirements more user-friendly for the regulated community and make the requirements as consistent, as possible, with other Department regulations. This proposed amendment will place more emphasis on the waste stream and less emphasis on the source of generation. Revisions to incorporate amendments to 40CFR258 will include, but not limited to, language regarding location restrictions for airport safety. Public notification requirements will be added. Waste characterization will be revised to include, but not limited to, the frequency for characterizing waste and the use of Practical Quantitation Limits (PQLs) for analytical methods. Issues including, but not limited to, demonstration-of-need, transfer of ownership, sign requirements, buffer language, and the reporting date for annual report information will be added and amended, as appropriate, for consistency between the different types of landfills. Financial assurance allowable methods will be redefined and financial assurance may be expanded to include privately owned, on-site facilities. A new section of requirements for the permittee will be added to include, but not limited to, notification to the Department regarding a change in business status. Land entry agreement requirements will be added, as well as an expiration date for permits where no construction has occurred in a specified time frame. Also, language may be added for clarification when Department notification is required.

14 DRAFTING

The amendment will divide the regulation into six (6) parts as follows:

Part I will outline the general criteria that applies to one or more Parts of the regulation, to include, but not limited to, the applicability for the regulation, waste characterization, definitions, public notification, financial assurance, permittee requirements, disclosure requirements, land entry agreement, severability, violations and penalties, and appeals.

Part II will address structural fill activities. This part will clarify the difference in "structural fill" and "beneficial fill" and require registration of all structural fill activity. This measure is meant to clarify the language of the regulation, to help alleviate open dumping, and to provide a viable mechanism for structural fill using a suitable waste stream. The proposed amendment will also delete ambiguous language that addresses a structural fill exemption in the current regulation.

Part III will continue to address beneficial fill activity using land-clearing debris under a General Permit. Beneficial fill will be better defined.

Part IV will outline requirements for "Class One Landfills." These landfills will be able to accept a waste stream based on type of waste instead of the source of generation. Waste listed in Appendix I, waste that demonstrates similar properties to Appendix I waste as determined by the Department on a case-by-case basis, and wastes that test ≤10 times the maximum contaminant level (MCL) as published in R.61-58, State Primary Drinking Water Regulation current at the time of the permit application will be acceptable for disposal in a Class One Landfill. This Part will encompass and supercede existing R.61-107.11 - Parts III and IV construction and demolition landfills, and R.61-107.16 - Class I industrial landfills. The Department is considering the addition of groundwater monitoring and post-closure requirements for these landfills. The Department may also consider allowing the disposal of lead-base painted waste in these landfills contingent upon the addition of groundwater monitoring.

Part V will outline requirements for "Class Two Landfills." These landfills will be for the disposal of wastes that test >10 times the MCL and ≤ 30 times the MCL as published in R.61-58, current at the time of the permit application This Part will encompass and supercede existing R.61-107.16, Class II industrial landfills.

Part VI. will outline the requirements for "Class Three Landfills." These landfill will accept municipal solid waste, non-hazardous municipal solid waste incinerator ash and other nonhazardous wastes that test >30 times the MCL as published in R.61-58, current at the time of permit application. This Part will encompass and supercede the existing R.61-107.258 - municipal solid waste landfills, R.61-107.13 - incinerator ash landfills, and R.61-107.16 - Class III industrial landfills. Subtitle D siting and construction standards will apply for all Part VI proposed landfills and the codification consistent with 40CFR258 will be maintained.

Requirements for the permit application package in Part IV, V, and VI will be revised for consistency as much as possible, by adding and amending requirements as appropriate, and will follow the sequence for the Department's review process. This attempt at consistency will include, but not limited to, landscaping requirements, information submittal requirements, management of landfill cover material, waste screening requirements, record retention times in accordance with Department standards, storm water diversion requirements, sedimentation basin and spillway design requirements, certification testing for closed landfill units, closure seeding requirements, and the addition of provisions to ensure that waste does not come into contact with any flood waters for those landfills located within the 100-year flood plain. Language regarding safety factor against failure will be added to the Part VI section on seismic impact zone. A reference to special waste analysis and implementation plan pursuant to Code Section 44-96-390 will be added to Part VI, and the Department will consider allowing leachate recirculation with related requirements as appropriate in Part VI.

Buffers will be amended to include, but not limited to, the following: addition of a utility buffer in Parts V and VI; addition of a wetlands buffer for all Parts; revision of the drinking water well buffers in Parts V and VI; and

an increase in the Part VI buffer from residences, daycare centers, hospitals and recreational park areas, etc. to one thousand (1000) feet.

The Appendices will be revised to include disposal of brown goods, segregated commercial waste, animal carcasses, cathode ray tubes, and friable asbestos, and to include amendments to 40CFR258. As appropriate throughout the regulation, procedures for determining the separation of the groundwater table and the bottom of the disposal area, permitting and reporting requirements, and criteria for noting the existence of a disposal facility on property in the record of ownership will be revised and clarified. Other pertinent changes that fall within the scope of the proposed revisions as outlined in this Notice will be addressed, to include stylistic changes.

This regulation amendment is comprehensive and will streamline and reduce Department solid waste regulations that address land filling issues. Legislative review of the proposed amendment is required.

COMMISSION FOR MINORITY AFFAIRS

CHAPTER 139

Statutory Authority: 1976 Code Section 1-31-40 (A)(7)(10), et seq.

Notice of Drafting:

The South Carolina Commission for Minority Affairs proposes to draft a new regulation that addresses State Recognition of Native American Indian entities in the State of South Carolina. The proposed regulations also will set terms and qualification for membership on advisory committees representing the interest of ethnic minority populations in the State of South Carolina. Interested persons may submit comments to Ms. Janie A. Davis, Executive Director, South Carolina Commission for Minority Affairs, Northeast Commerce Center, 6904 North Main Street – Suite 107, Columbia, S.C. 29203. To be considered, written comments must be received no later than 5:00 p.m. on August 22, 2003, the close of the drafting comment period. If you have questions, you may contact the Commission by calling (803) 333-9621.

Synopsis:

The General Assembly broadened the definition of minorities served by the Commission to include African Americans, Native American Indians, Hispanics/Latinos, Asians and other ethnic populations within the minority community. To effectively serve these groups, advisory committees will be formed inclusive of persons knowledgeable about the populations to be served. The Commission seeks comments regarding who should serve on the various committees and for how long. Additionally, the Commission seeks comments regarding the process for determining state recognition of Native American Indian entities and suggestions for filling seats on the Native American advisory committee

Legislative review and approval of the proposal regulations is required.

DEPARTMENT OF REVENUE

CHAPTER 7

Statutory Authority: 1976 Code Section 12-4-320 and 61-2-60

Notice of Drafting:

The South Carolina Department of Revenue is considering amending SC Regulation 7-702 to add subsection 7-702.5 concerning a prohibition against selling or delivering beer or wine to anyone who remains in a motor vehicle during the transaction. This regulation is specifically intended to prohibit the sale of beer and wine at drive-in/drive-thru establishments and on a curb service basis. This proposal will incorporate the provisions of former SC Regulation 7-98, which was inadvertently deleted during the drafting process last year in which all

16 DRAFTING

alcoholic beverage regulations were reorganized by subject matter. This proposal will add subsection 7-702.5 to read as follows:

7-702.5 Drive-In/Drive-Thru Establishments Prohibited

A permit holder, employee of a permit holder, or agent of a holder must not sell or deliver beer or wine to anyone who remains in a motor vehicle during the transaction. This regulation is specifically intended to prohibit the sale of beer and wine at drive-in/drive-thru establishments and on a curb service basis.

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 August 25, 2003.

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 7-702 to add subsection 7-702.5 concerning a prohibition against selling or delivering beer or wine to anyone who remains in a motor vehicle during the transaction. This regulation is specifically intended to prohibit the sale of beer and wine at drive-in/drive-thru establishments and on a curb service basis. This proposal will incorporate the provisions of former SC Regulation 7-98, which was inadvertently deleted during the drafting process last year in which all alcoholic beverage regulations were reorganized by subject matter.

DEPARTMENT OF REVENUE

CHAPTER 117 Statutory Authority: 1976 Code Section 12-4-320

Notice of Drafting:

The South Carolina Department of Revenue is considering repealing Article 9 of Chapter 117 of the Code of Regulations (SC Regulations 117-190, 117-190.1, 117-190.2, and 117-190.3) since these regulations are no longer needed due to changes in the law. These regulations concerned locations that operated video poker machines and such machines are now illegal in South Carolina.

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 August 25, 2003.

Synopsis:

The South Carolina Department of Revenue is considering repealing Article 9 of Chapter 117 of the Code of Regulations (SC Regulations 117-190, 117-190.1, 117-190.2, and 117-190.3) since these regulations are no longer needed due to changes in the law. These regulations concerned locations that operated video poker machines and such machines are now illegal in South Carolina.

Document No. 2845

DEPARTMENT OF LABOR, LICENSING, AND REGULATION SOUTH CAROLINA OCCUPATIONAL HEALTH AND SAFETY REVIEW BOARD

CHAPTER 127

Statutory Authority: 1976 Code Section 41-15-610(a)

R.127-1.6 Failure to Appear

Preamble:

The Occupational Health and Safety Review Board proposes to amend Regulation 127-1.6 to reflect social and economic changes since its promulgation.

Section-by-Section Discussion:

R.127-1.6 Failure to Appear

Amends to increase the fine for failure of protesting party to appear before the South Carolina Occupational Health and Safety Review Board from \$100 to \$350. This fine will be assessed against a defaulting party.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Judge Division at 9:30 a.m. on Tuesday, September 9, 2003. Written comments may be directed to Joan Wilkie, Administrative Law Clerk, South Carolina Occupational Health and Safety Review Board, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., on Monday, August 25, 2003.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

<u>Purpose</u>: The Board is updating the regulations to charge Three hundred fifty (\$350) dollars instead of One hundred (\$100) dollars for the protesting party in default of a hearing.

Legal Authority: 1976 Code, Section 41-15-610(a)

<u>Plan for Implementation:</u> The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify parties to contested cases of the revised regulations at the time their case is docketed and post the revised regulations on the agency's web site.

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

The proposed regulation will standardize fees for protesting parties who default by failing to appear at the scheduled hearing. Assessment of these changes will aid the protesting parties in understanding their responsibilities to the public.

DETERMINATION OF COSTS AND BENEFITS:

18 PROPOSED REGULATIONS

No additional costs to protesting parties will result from these regulations, unless the protesting party chooses to fail to appear at hearing without notice. The protesting parties will benefit from the clarification of their responsibilities, particularly in area of attendance. The public will benefit from the effectiveness of the hearing process.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment. This regulation contributes to the Board's function of protecting public health in the state of South Carolina.

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

There will be no detrimental effect on the environment and public health of this State if this regulation is not implemented.

STATEMENT OF RATIONALE:

There were no scientific or technical basis relied upon in developing the regulation. Furthermore, the State of South Carolina, through the Occupational Safety and Health Review Board and the Department of Labor, Licensing and Regulation, incurs significant costs in providing administrative review hearings at the request of employers who contest OSHA citations. It is appropriate for the taxpayer to bear the costs of providing due process to an employer. It is not appropriate for the taxpayer to bear the costs of abuse of the administrative review system by employers who request hearings and then fail to appear to state their objections to the citation. The proposed figure of Three hundred fifty (\$350) dollars was chosen to reflect the actual costs of issuing hearing notices, attendance by a hearing officer and a court reporter, and preparation and attendance by a state attorney and compliance officer witness. The figure was also chosen as a deterrent figure to encourage employers to withdraw their protests before these expenses are incurred if they do not intend to appear for hearing on their objections to a citation.

Text:

127-1.6. Failure to Appear.

The failure of a protesting party to appear at a hearing shall be deemed a withdrawal of the Notice of Protest and a waiver of all rights except the right to be served with a copy of the order of the Board or of the Board member to whom the matter has been assigned. If a party requesting a change in abatement dates fails to appear, such failure shall be an abandonment of the request. Upon a showing of good cause, the Board or Board member to whom the matter has been assigned may grant requests for reinstatement filed within ten (10) days after the scheduled hearing. In such cases, the hearing may be rescheduled. If the matter is not reinstated, the protesting party in default may be taxed with the costs of the hearing in the amount of Three hundred fifty (\$350) dollars.

Filed: June 20, 2003, 11:00 am

Document No. 2846

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: S.C. Code Sections 50-15-30, 50-15-40 50-15-50 and 50-15-70

123-150.	Non-Game and Endangered Species.
123-150.2	Birds, Fish, Reptiles, Amphibians and Mammals
123-151.1	Spotted Turtle Program

Synopsis:

These regulations amend Section 123-150.2 in Chapter 123 and create a new Section, 151.2 in this same Chapter.

Section 123-150.2 addresses additions official state list of Non-game Wildlife in Need of Management. The Yellowbelly Turtle, Florida Cooter, River Cooter, Chicken Turtle, Snapping Turtle, Florida Softshell Turtle, and Spiny Softshell Turtle are being added to this list.

Section 123-151.2 addresses establishment of a program to manage the take, possession and commercial trade in these newly listed freshwater turtle species.

Instructions:

Replace existing Section 123-150.2 of Chapter 123 with the following amended Sections and add Section 123-151.2 to Chapter 123.

Text:

Article 5 Non-Game and Endangered Species

R	e	g
	•	$\overline{}$

- 123-150 Non-Game and Endangered Species.
- 123-150.2 Birds, Fish, Reptiles, Amphibians and Mammals.
- 123-151.1 Spotted Turtle Program.

123-150. Non-Game and Endangered Species

1. The following list of species or subspecies of non-game wildlife are faced with extinction in the foreseeable future and are added to the official State List of Endangered Wildlife Species of South Carolina.

I. Birds

- 1. American Peregrine Falcon (Falco peregrinus anatum)
- 2. Arctic Peregrine Falcon (Falco peregrinus tundrius)
- 3. Bachman's Warbler (Vermivora bachmanii)
- 4. Bewick's Wren (Thryomanes bewickii)
- 5. Eskimo Curlew (Numenius borealis)
- 6. Kirtland's Warbler (Dendroica kirtlandii)
- 7. Red-cockaded Woodpecker (Picoides borealis)
- 8. Swallow-tailed Kite (Elanoides forficatus)

20 EMERGENCY REGULATIONS

- 9. Wood Stork (Mycteria americana)
- 10. Piping Plover (Charadrius melodus)
- 11. Southern Bald Eagle (Haliaeetus leucocephalus)

II. Fish

- 1. Shortnose Sturgeon (Acipenser brevirostrum)
- 2. Pinewoods Darter (Etheostoma mariae)

III. Mammals

- 1. Atlantic Right Whale (Eubalaena glacialis)
- 2. Blue Whale (Balaenoptera musculus)
- 3. Bowhead Whale (Balaena mysticetus)
- 4. Eastern Cougar (Felis concolor cougar)
- 5. Finback Whale (Balaenoptera physalus)
- 6. Florida Manatee (Trichechus manatus)
- 7. Humpback Whale (Megaptera novaengliae)
- 8. Indiana Bat (Myotis sodalis)
- 9. Sei Whale (Balaenoptera borealis)
- 10. Sperm Whale (Physeter catodon)
- 11. Rafinesque's Big-eared Bat (Plecotus rafinesquii)

IV. Reptiles

- 1. Atlantic Leatherback Turtle (Dermochelys c. coriacea)
- 2. Atlantic Ridley Turtle (Lepidochelys kempii)
- 3. Gopher Tortoise (Gopherus polyphemus)
- 4. Atlantic Hawksbill Sea Turtle (Eretmochelys imbricata)
- 5. Eastern Indigo Snake (Drymarchon corais couperi)

V. Amphibians

- 1. Flatwoods Salamander (Ambystoma cingulatum)
- 2. Zigzag Salamander (Plethodon dorsalis)
- 3. Carolina Gopher Frog (Rana c. capito)

VI. Molluscs

- 1. Atlantic Pigtoe Mussel (Fusconaia masoni)
- 2. Brother Spike Mussel (Elliptio fraterna)
- 2. It shall be unlawful for any person to take, possess, transport, export, process, sell, or offer for sale or ship, and for any common carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on the list of "Endangered Wildlife Species of South Carolina", except by permit for scientific and conservation purposes issued by the South Carolina Department of Natural Resources.

Permits for conservation purposes shall be issued only for relocation, if warranted, and the incidental take of Red-cockaded Woodpeckers as part of the statewide Habitat Conservation Plan for Safe Harbor and for other mitigation purposes approved by the U.S. Fish and Wildlife Service.

3. The penalty for the violation of this Rule and Regulation shall be that prescribed by 50-15-80, 1976 S.C. Code of laws.

123-150.2 Birds, Fish, Reptiles, Amphibians and Mammals

The following list of species or subspecies of non-game wildlife are considered to be threatened and are added to the official state list of Non-game Species in Need of Management.

I. Birds

- 1. Bewick's Wren (Thryomanes bewickii)
- 2. Common Ground Dove (Columbina passerina)
- 3. Least Tern (Sterna albifrons)
- 4. Wilson's Plover (Charadrius wilsonia)

II. Fish

- 1. Carolina Pygmy Sunfish (Elassoma boehlkei)
- 2. Broadtail Madtom (Noturus sp.)

III. Reptiles

- 1. American alligator (Alligator mississippiensis)
- 2. Atlantic Loggerhead Sea Turtle (Caretta caretta)
- 3. Atlantic Green Sea Turtle (Chelonia mydas)
- 4. Coal Skink (Eumeces anthracinus)
- 5. Bog turtle (Clemmys muhlenbergii)
- 6. Spotted Turtle (Clemmys guttata)
- 7. Yellowbelly Turtle (Trachemys scripta scripta)
- 8. Florida Cooter (Pseudemys floridana floridana)
- 9. River Cooter (Pseudemys concinna concinna)
- 10. Chicken Turtle (Deirochelys reticularia)
- 11. Snapping Turtle (Chelydra serpentina serpentina)
- 12. Florida Softshell Turtle (Apalone {Trionyx} ferox)
- 13. Spiny Softshell Turtle (Apalone {Trionyx} spinifera aspera)

IV. Amphibians

- 1. Dwarf Siren (Pseudobranchus striatus)
- 2. Pine Barrens Treefrog (Hyla andersonii)

V. Mammals

1. Small-footed Bat (Myotis leibii)

123-151.2 Regulations for Freshwater Turtles.

A. Freshwater Turtle program

22 EMERGENCY REGULATIONS

- 1. It is unlawful for any person to sell, or take, transport or possess for commercial purposes, the following turtle species without a permit from the department:
 - a. Yellowbelly Turtle
 - b. Florida Cooter
 - c. River Cooter
 - d. Chicken Turtle
 - e. Snapping Turtle
 - f. Florida Softshell Turtle
 - g. Spiny Softshell Turtle

Document No. 2820 **DEPARTMENT OF PUBLIC SAFETY**CHAPTER 38

Statutory Authority: 1976 Code Section 56-10-640 Article 3, Subarticle 15 "Motorist Insurance Identification Database"

Synopsis:

These new regulations outline procedures to be followed by the Department and the Insurance Industry to implement the Motorist Insurance Identification Database Program Act of 2002. The regulations outline the information to be reported by the Insurance Industry, method for reporting and frequency of reporting under this program.

Instructions: Add text of new Regulations 38-400 through 38-409.

Text:

400. Introduction

The South Carolina (SC) Department of Public Safety, Division of Motor Vehicles (DMV) is implementing the South Carolina Automobile Liability Insurance Reporting (SC ALIR) System that collects automobile liability insurance information from insurers that are licensed to provide automobile liability insurance in the state. The DMV will cross-reference the collected information to South Carolina driver and vehicle data to identify registered vehicles that do not meet the minimum automotive liability insurance requirements of the state.

401 Definition

- A. Cancellation or Refusal to Renew Date is the date provided in the notice required by Section 38-77-120.
- B. Implementation Guide is the Document developed by the Working Group to govern the policies and procedures required for the administration of the SC ALIR.
- C. Newly Licensed Driver's List is the list defined in Section 56-10-640 and will be provided to insurers for a fee prescribed by the Department.
- D. SR-22 is defined as the notification filed with the department to show proof of future financial responsibility as required by section 56-9-550.
- E. SR-26 is defined as the notification filed with the department to show that an insurer has cancelled the financial responsibility coverage as required in 56-9-550.
- 402. Method of Communication Option
- A. The SC ALIR System will provide insurers with the following options for data communications with the SC ALIR System:
- 1. Internet File Transfer Protocol (FTP) accepting both Electronic Data Interchange (EDI) and Text document.
 - 2. Value Added Network (VAN) accepting EDI documents
 - 3. Internet Hyper-Text Transfer Protocol (HTTP) or Web accepting direct data entry

24 FINAL REGULATIONS

- 4. Other forms of communication approved by the Department in the Implementation Guide, upon recommendation of the working group.
- B. During registration with the SC ALIR System, each insurer will select the communication. This selection applies to both sending data to the SC ALIR System and receiving data from the system. During registration, each insurer will also select the data document type to be exchanged with the system, based on the selected communication option.
- C. Insurers will be responsible for the costs associated with programming their systems to utilize the options for data communications with the SC ALIR System.

403.0 File Transfer Protocol (FTP) Data Communication

Insurers that wish to transmit large files to the SC ALIR System without incurring the costs of a VAN may use the FTP option. Secured FTP accounts and folders will be created within the SC ALIR System for the insurers that choose the FTP option while registering with the SC ALIR System. Login, folder structure and other necessary information will be provided to insurers to allow access their specific folders.

403.1 Value Added Network (VAN) Data Communication

Insurers may select the VAN option. Insurers using the VAN option will have to set up mailboxes and communications. Insurers utilizing the VAN option will be required to pay an additional fee which will be placed by the Comptroller General into a special restricted account to be used by the Department to defray the expenses of the division in administering this program.

403.2 Web Data Communication

For low reporting volumes, insurers may prefer the option of entering data directly on the SC ALIR System's secure website. All registered users will have the ability to submit data over the web. However only users that have selected Web as the communication option will be able to retrieve Error Transactions via the web. After insurers have successfully registered, they will be provided with a unique user name and password to access the secure website. The confidentiality and continued security of the username and password will be the insurer's responsibility.

404. File Formatting Options

Insurers submitting data using FTP will have the option of submitting either text or EDI files. Insurers using the VAN will only be able to submit EDI files. The file formatting option will be selected during registration.

404.1 Electronic Data Interchange Documents

The SC ALIR System supports the American National Standards Institute, Accredited Standards Committee (ANSI ASC) X12 Standard, Transaction Sets 811 and 997, Release 3050. This standard has been identified for use in state government ALIR applications by insurance industry trade groups such as the Insurance Industry Committee on Motor Vehicle Administration (IICMVA) and is already in use by some other state DMVs for Automobile Insurance Liability Reporting.

404.2 Text Documents

Insurers will have the alternative of using Text data interchange with the SC ALIR System. A Text data interchange format will be specified to support the needs of the SC ALIR System.

405. Data Security

A. FTP

The SC ALIR System will implement FTP using a Secured Sockets Layer (SSL) enabled FTP server and a PGP option will also be provided. An SSL enabled FTP client is required to exchange files with the server. The SC ALIR Program will supply an SSL enabled FTP client for the Microsoft Windows family of operating systems on request of any insurer.

B. Web

All data submitted/retrieved over the web will also be encrypted using SSL.

C. VAN

The Value Added Network is a private network that ensures data security.

406. Types of Transactions

- A. The following types of transactions will be reported by the insurers:
 - 1. All mid-term non-pay cancellations.
- 2. All mid term cancellations where an insured requests cancellation of the policy before the policy has expired except for the following: the insured produces satisfactory proof from the Department that he has sold or otherwise disposed of the insured vehicle or surrendered its tags and registration; the insured has secured another policy that meets the financial responsibility requirements prescribed in the law.
 - 3. All non-renewals for underwriting reasons by the insurer.
- 4. All FR-11 satisfaction transactions for new/renewed policies that have been added/reinstated in response to FR-4 notices (Compliance Reporting).
- B. The following transactions may be reported only over the web:
 - 1. Add SR 22 Filing
 - 2. SR 26 Policy Cancel
 - 3. Cancel Vehicle from SR 22 Filing

407. Types of Policies

The following types of policies should be reported:

- A. Only private passenger automobile liability insurance.
- B. Only policies for motor vehicles registered and insured in South Carolina.
- C. Only vehicle specific insurance.
- D. No commercial policy form should be reported.

408. Data Elements

The insurers will report the data elements defined in the Implementation Guide.

409. Implementation Guide

The Implementation Guide will be revised as necessary, upon recommendation of the working group. Insurers will be provided with a minimum of ninety days notification of changes to the Implementation Guide.

Statement of Rationale: The Department developed these regulations with the assistance of a working group established by the Motorist Insurance Identification Database Program Act of 2002. The working group consisted of a Representative from the General Assembly, members of the Insurance Industry, Department of Insurance and Department of Public Safety.

26 FINAL REGULATIONS

Preliminary Fiscal Impact: The Department anticipates the fiscal impact to the Department will be approximately \$875,000 to implement the program and \$800,000 annually thereafter to maintain the program. The Department anticipates the cost to industry members will vary depending on the method of communication selected by the insurer.