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# 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 28, 2006**

Volume 30 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.

## 2006 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	1/13	2/10	3/10	4/14	5/12	6/9	7/14	8/11	9/8	10/13	11/10	12/8
Publishing Date	1/27	2/24	3/24	4/28	5/26	6/23	7/28	8/25	9/22	10/27	11/24	12/22

## REPRODUCING OFFICIAL DOCUMENTS

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## ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

## EMERGENCY REGULATIONS

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

## REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

## EFFECTIVE DATE OF REGULATIONS

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

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

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 South Carolina General Assembly Home Page: [www.scstatehouse.net](http://www.scstatehouse.net)

DOC No.	RAT FINAL No. ISSUE	SUBJECT	EXP. DATE	AGENCY
2955 R216	SR30-2	Motorist Insurance Identification Database (Repeal)	1/15/06	Department of Public Safety
2958	SR30-2	Voluntary Check-off Funds	1/17/06	Department of Revenue
2935	SR30-2	Property Tax (Repeal 117-8)	1/17/06	Department of Revenue
2915	SR30-2	Repeal of Bulk Sales Regulation	1/17/06	Department of Revenue
2936	SR30-2	Sales and Use Tax Exemption for Machines	1/17/06	Department of Revenue
2937	SR30-2	Alcoholic Beverages, Beer and Wine	1/17/06	Department of Revenue
2914	SR30-2	Electric Power Tax	1/17/06	Department of Revenue
2966	SR30-3	Repeal Annual Renewal Plan	2/19/06	Department of Insurance
2968	SR30-3	Workers' Compensation Assigned Risk Rates	2/19/06	Department of Insurance
2942	SR30-3	Graduation Requirements	2/20/06	Board of Education
2962	SR30-3	Implementation of Emergency Health Powers Act	2/20/06	Department of Health and Envir Control
2945	SR30-3	Standards for Licensing Tattoo Facilities	2/21/06	Department of Health and Envir Control
2973	SR30-4	Repeal of Duplicative Regulations Included in Nurse Practice Act	3/12/06	LLR: Board of Nursing
2971	SR30-4	Assessment Program	3/22/06	Board of Education
2972	SR30-4	Transportation of Unmanufactured Forest Products	3/22/06	Department of Public Safety
2975	SR30-4	211 Network Provider Certification Requirements	4/09/06	Budget and Control Board
2970	SR30-4	Seasons, Limits, Restrictions on WMA's, Turkey Hunting	4/11/06	Department of Natural Resources
2969	SR30-4	Wildlife Management Area Regulations	4/11/06	Department of Natural Resources
2978 R213	SR30-3	CSO Mortality Table	4/22/06	Department of Insurance
2974	SR30-5	Settlement, Proof of Compliance, Self-Ins, Financial, Audits	4/22/06	Workers' Compensation Commission
2976	SR30-5	Representation of Parties and Intervenors	5/10/06	LLR: Occupat Health and Safety Rev Bd
2982	SR30-5	Child Labor	5/10/06	LLR: Office of Labor Services
3014 R264	SR30-4	SC HOPE Scholarship Program	5/10/06	Commission on Higher Education
3015 R265	SR30-4	SC LIFE Scholarship Program	5/10/06	Commission on Higher Education
3016 R266	SR30-4	Lottery Tuition Assist Prog Two-Year Pub & Independ Instit.	5/10/06	Commission on Higher Education
3017 R267	SR30-4	Palmetto Fellows Scholarship Program	5/10/06	Commission on Higher Education
3018 R268	SR30-4	LIFE, HOPE, Palmetto Fellows Scholarships Appeals Regulations	5/10/06	Commission on Higher Education
2999	SR30-5	Additional Areas of Certification	5/10/06	Board of Education
2996	SR30-5	Displaying the Flag	5/10/06	Board of Education
2984	SR30-5	Denial, Revocation and Suspension of Credentials	5/10/06	Board of Education
2995 R279	SR30-5	Fees and Charges of Consumer Credit Counseling Org Licensees	5/10/06	Consumer Affairs
3012	SR30-5	Licensees, Ethics for Supervisors, Standards for Supervision	5/10/06	LLR: Counselors, Therapists, Psycho-Ed
3036	SR30-5	Instant Games, Online Games	5/11/06	SC Lottery Commission
3035 R316	SR30-5	Nurse Licensure Compact	5/11/06	LLR: Board of Nursing
3030	SR30-5	Supervising Licensees	5/11/06	LLR: Board of Nursing
3031	SR30-6	License to Practice Dentistry	5/15/06	LLR: Board of Dentistry
3011	SR30-6	Intrastate Movement of Certain Animals - Sheep and Goats	5/17/06	Clemson University
3007	SR30-6	Imported Fire Ant Quarantine	5/18/06	Clemson University
3008	SR30-6	Soil Amendments	5/18/06	Clemson University
2983	SR30-6	Wired Music	5/20/06	Department of Revenue
3033	SR30-6	Sales and Use Tax - Interstate Commerce	5/20/06	Department of Revenue
2987	SR30-6	ABL - Records	5/20/06	Department of Revenue
3032	SR30-6	Sales and Use Tax - Warranty Agreements	5/20/06	Department of Revenue
2985	SR30-6	Sales and Use Tax - Manufactured and Modular Homes	5/20/06	Department of Revenue
3028	SR30-6	Types and Levels of Credential Classification (Repeal)	5/20/06	Board of Education
3029	SR30-6	Requirements for Credential Advancement (Repeal)	5/20/06	Board of Education
3006	SR30-6	Tidelands and Coastal Waters	5/20/06	Department of Health and Envir Control
3000	SR30-6	Emergency Medical Services	5/20/06	Department of Health and Envir Control
3005	SR30-6	Capacity Use Declar (Repeal);New Groundwater Use and Report	5/20/06	Department of Health and Envir Control
3003 R436	SR30-6	Hazardous Waste Management	5/20/06	Department of Health and Envir Control
3001	SR30-6	Environmental Protection Fees	5/20/06	Department of Health and Envir Control
3004 R423	SR30-6	Prevention and Control of Lead Poisoning in Children	5/20/06	Department of Health and Envir Control

## 2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

### Subject to Sine Die Expiration Date Revision

3027	SR30-6	Elementary Sch Food Service Meals and Competitive Foods	6/06/06	Board of Education
3026 R440	SR30-7	Maritime Security	-----	SC Maritime Sec Comm Naval Militia
3040	SR30-7	Hunting in Wildlife Management Areas	6/14/06	Department of Natural Resources
3025 R344	SR30-6	Classified Waters	-----	Department of Health and Envir Control
3047		Milk Producers Tax Credit	1/15/07	Department of Agriculture
3043 R363	SR30-6	State Recognition of Native American Indians	-----	Commission for Minority Affairs
3044 R329	SR30-6	Child Support Guidelines	-----	Department of Social Services
3045 R345	SR30-6	Securities	-----	Office of Attorney General
3057		Retail Licenses And Partnerships	2/01/07	Department of Revenue
3056		End-of-Course Tests	2/01/07	Department of Education
3034 R348	SR30-6	Boiler Safety Program	-----	Dept of Labor, Licensing and Regulation
3059		Highway Advertising Control	3/06/07	Department of Transportation
3022		Licensing of Residential Group Care Organ for Children	3/07/07	Department of Social Services
3060 R450	SR30-7	Professional Employer Organizations	-----	Department of Consumer Affairs
3042		Practice and Procedures	3/20/07	Public Service Commission
3061		Termination of the SCAAIP Joint Underwriting Association	3/21/07	Department of Insurance
3064 R392	SR30-6	Private Security and Private Investigation Businesses	-----	Law Enforcement Division
3052		Telecommunications Utilities	4/09/07	Public Service Commission
3055		Public Swimming Pools	5/09/07	Department of Health and Envir Control

#### Committee Requested Withdrawal:

3021	Penalties Noncompliance Regulated Child Care Settings	Department of Social Services
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#### Permanently Withdrawn: None

#### Resolution Introduced to Disapprove

2927	The Practice of Selling and Fitting Hearing Aids	Department of Health and Envir Control
3002	Shellfish	Department of Health and Envir Control



**Executive Order No. 2006-07**

**WHEREAS**, by Executive Order 2006-06, a state of emergency for Chester County, South Carolina, was declared because of hazardous chemicals released as a result of an uncontrollable fire in the JP Stevens No. 3 Mill located in the City of Great Falls; and

**WHEREAS**, the hazardous conditions which began on June 6, 2006, no longer present a danger to the citizens of Chester County.

**NOW, THEREFORE**, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I declare that a state of emergency no longer exists and hereby declare that Executive Order 2006-06 is cancelled, rescinded, and from this date declared null and void.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 13th DAY OF JUNE 2006.  
MARK SANFORD  
Governor**

**Executive Order No. 2006-08**

**WHEREAS**, the Grand Jury of the United States District Court for the District of South Carolina Orangeburg Division indicted John H. Rickenbacker, Chairman of the Orangeburg County Council, on June 21, 2006, for one count of soliciting and receiving bribes with the intent to be influenced and rewarded in connection with a business transaction involving Orangeburg County and one count of extortion; and

**WHEREAS**, a certified true copy of the indictment against John H. Rickenbacker has been provided to me; and

**WHEREAS**, Article VI, Section 8 of the South Carolina Constitution provides that "[a]ny officer of the State or its political subdivisions . . ., who has been indicted by a grand jury for a crime involving moral turpitude or who has waived such indictment if permitted by law may be suspended by the Governor until he shall have been acquitted. . ."; and

**WHEREAS**, John H. Rickenbacker is an officer of the State or its political subdivisions; and

**WHEREAS**, the above-referenced indictment is for a crime that involves moral turpitude; and

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend John H. Rickenbacker from the office he holds on the Orangeburg County Council. This suspension shall remain in effect until such time as he shall be formally acquitted or convicted.

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

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 28TH DAY OF JUNE, 2006.  
MARK SANFORD  
Governor**

## 4 NOTICES

### 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 28, 2006, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

#### Affecting Charleston County

Replace an eight-slice CT scanner with a sixty-four (64) slice CT scanner at Trident Medical Center and transfer the eight-slice CT scanner to Moncks Corner Medical Center.

Trident Medical Center  
North Charleston, South Carolina  
Project Cost: \$1,424,859

#### Affecting Greenville County

Construction of a third (3<sup>rd</sup>) operating room (OR) in the existing ambulatory surgery center.

The Center for Special Surgery, LLC  
Greenville, South Carolina  
Project Cost: \$2,117,126

Acquisition of the assets of Innervision, Inc. to include a sixty-four (64) slice CT scanner.

Greenville Hospital System  
Greenville, South Carolina  
Project Cost: \$7,615,627

Renovation and equipment for the radiology department, escalation of construction costs for CON (SC-04-22); equipment for additional special procedures room and two sixty-four (64) slice CT scanners of which one replaces a spiral CT scanner.

Greenville Memorial Hospital  
Greenville, South Carolina  
Project Cost: \$13,880,790

#### Affecting Horry County

Construction of a new bed tower to consolidate and enlarge the cardiovascular services areas, addition of 50 general hospital beds for a total of 269 general hospital beds and expansion of the emergency department.

Grand Strand Regional Medical Center  
Myrtle Beach, South Carolina  
Project Cost: \$57,801,145

#### Affecting Laurens County

Construction of a 12-bed inpatient hospice facility.

Hospice of Laurens County-Inpatient Hospice House  
Clinton, South Carolina  
Project Cost: \$5,949,559

## Affecting Spartanburg County

Addition of a mobile PET/CT Service, one day per week.  
 Mary Black Memorial Hospital  
 Spartanburg, South Carolina  
 Project Cost: \$481,890

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 28, 2006. "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 Aiken County

Addition of sixty (60) nursing home beds that do not participate in the Medicaid (TITLE XIX) Program for a total of one hundred ninety-two (192) nursing home beds.  
 NHC HealthCare/North Augusta  
 North Augusta, South Carolina  
 Project Cost: \$6,403,500

## Affecting Charleston County

Renovation for the relocation from 30 Bee Street, Charleston, SC to St. Francis Medical Plaza, Charleston, SC and replacement of a Positron Emission Tomography (PET) scanner with a Positron Emission Tomography/Computed Tomography (PET/CT) scanner.  
 Roper St. Francis Lowcountry PET Imaging Center  
 Charleston, South Carolina  
 Project Cost: \$3,352,529

## Affecting Florence County

Addition of twelve (12) Long Term Acute Care Hospital (LTACH) beds at Regency Hospital of Florence through the lease and subsequent transfer of twelve (12) general hospital beds from Carolinas Hospital System – Cedar Tower resulting from the conversion of six (6) inpatient substance abuse beds, four (4) detoxification beds, and two hospital based nursing home beds to general hospital beds at Carolinas Hospital System – Cedar Tower prior to the subsequent lease and transfer to Regency Hospital of Florence. Upon implementation, the project will result in capacity of twelve (12) inpatient substance abuse beds, forty-two (42) comprehensive rehabilitation beds, and twenty-four (24) hospital based nursing home beds at Carolinas Hospital System – Cedar Tower and forty (40) LTACH beds at Regency Hospital of Florence.  
 Regency Hospital of Florence  
 Florence, South Carolina  
 Project Cost: \$852,925

## Affecting Greenville County

Replacement of a single-slice Computed Tomography (CT) Scanner with a multi-slice CT Scanner.  
 HealthSouth Diagnostic Center of Greenville  
 Greenville, South Carolina  
 Project Cost: \$866,874

## 6 NOTICES

Acquisition of the assets of Innervision, Inc. to include a sixty-four (64) slice CT scanner.  
Greenville Hospital System  
Greenville, South Carolina  
Project Cost: \$7,615,627

Affecting Laurens County

Construction of a 12-bed inpatient hospice facility.  
Hospice of Laurens County-Inpatient Hospice House  
Clinton, South Carolina  
Project Cost: \$5,949,559

Affecting Oconee County

Construction of a new patient tower and renovation of the existing hospital for the addition of nine (9) acute care hospital beds for a total of 169 acute care hospital beds and no change in services.  
Oconee Memorial Hospital  
Seneca, South Carolina  
Project Cost: \$46,952,060

Affecting York County

Construction of a diagnostic imaging center to include a 1.5T Magnetic Resonance Imaging (MRI) unit, sixty-four (64) Slice Computed Tomography (CT) scanner, ultrasound, and digital radiography.  
Piedmont Diagnostic Imaging Center at Baxter  
Fort Mill, South Carolina  
Project Cost: \$6,147,992

### **DEPARTMENT OF LABOR, LICENSING AND REGULATION BUILDING CODES COUNCIL**

#### **NOTICE OF GENERAL PUBLIC INTEREST**

Notice is hereby given that, in accordance with Section 6-9-40 of the 1976 Code of Laws of South Carolina, as amended, the South Carolina Building Codes Council intends to adopt the following building codes for use in the state of South Carolina:

- 2006 Edition of the International Building Code;
- 2006 Edition of the International Residential Code;
- 2006 Edition of the International Fire Code;
- 2006 Edition of the International Plumbing Code;
- 2006 Edition of the International Mechanical Code;
- 2006 Edition of the International Fuel Gas Code;
- 2006 Edition of the International Energy Conservation Code.
- 2006 Edition of the International Property Maintenance Code;
- 2006 Edition of the International Existing Building Code.

The Council specifically requests comments concerning sections of the proposed editions, which may be unsuitable for enforcement in South Carolina. Written comments may be submitted on or before December 1, 2006 to Gary F. Wiggins, Administrator, Post Office Box 11329, Columbia, SC 29211-1329.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF MEDICAL EXAMINERS  
NOTICE**

In accordance with Section 1-23-40 of the 1976 Code of Laws of South Carolina, as amended, notice is hereby given that the State Board of Medical Examiners of South Carolina has adopted the following statement as guidance for physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics as adopted by the Board. For purposes of discipline and licensure in matters before the Board, failure to practice in compliance with this statement may lead to discipline as a violation of the Medical Practice Act (40-47-5, et seq.).

**THE SOUTH CAROLINA BOARD OF MEDICAL EXAMINERS  
POLICY ON EMERGENCY CARE AND ON-CALL PHYSICIANS**

The Board understands, based on EMTALA and CMS regulations, that federal law requires hospitals to provide on-call *physicians* in appropriate specialties. *See* 42 USC 1395cc(a)(1)(I)(iii); 42 CFR 489.20(r)(2). Therefore, it is clear that a hospital may not allow a midlevel provider to take call *instead* of a physician. The Board recognizes that circumstances exist in which a physician extender may be the appropriate practitioner to respond to a call from an emergency department that is providing screening or stabilization mandated by EMTALA. However, any decision as to whether to respond in person or direct the physician extender to respond should be made by the responsible on-call specialist, based on the patient's medical needs and the capabilities of the hospital, and would, of course, be appropriate only if it is consistent with applicable State scope of practice laws and hospital bylaws, rules, and regulations. *See* 68 Federal Register 53256 (2003).

The decision of who to speak to by phone or who must present to the emergency department must be left to the emergency physician or other medical staff member requiring the services of the on-call specialists. The Board believes any disagreement between the two (emergency physician and the on-call specialist) regarding the need for an on-call physician to come to the hospital and examine the patient must be resolved by deferring to the medical judgment of the emergency physician or other practitioner who has personally examined the patient and is currently treating the patient. *See* 68 Federal Register 53255 (2003).

The on-call specialist must respond to a page by calling the emergency department and discussing the medical needs of the patient with the emergency physician. After discussing the patient's medical needs, the on-call specialist can then make a proper decision on whether to come to the emergency department personally or to send the physician extender.

For routine admissions or follow-up care, the emergency physician can contact the midlevel provider to arrange the necessary services. However, for true emergencies or other instances where the emergency physician wants phone consultation from the on-call specialist directly, or needs the specialist to come to the emergency department to evaluate and treat the patient, the emergency physician must be able to contact the specialist directly. The choice of which on-call specialist to contact and which one must come to the emergency department must always rest with the physician examining the patient in the emergency department.

## **8 DRAFTING**

**DEPARTMENT OF NATURAL RESOURCES**  
**CHAPTER 123**  
Statutory Authority: 1976 Code Section 50-11-2200

**Notice of Drafting:**

The Department of Natural Resources proposes to amend Regulation 123-40, "Hunt Units and Wildlife Management Area Regulations". The subject of the proposed action is to amend the regulation to modify existing seasons and methods and add new wildlife management areas to allow additional hunting opportunity. Any person interested may submit written comments to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

**Synopsis:**

This amended regulation will allow the expansion of existing seasons and methods within the current season framework to allow additional opportunity on existing and new Wildlife Management Areas. The regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas.

Document No. 3069  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

***S.C. Regulation 61-62, Air Pollution Control Regulations and Standards, and the State Implementation Plan (SIP)***

**Preamble:**

Pursuant to S.C. Code Section 48-1-10 *et seq.*, the South Carolina Department of Health and Environmental Control (Department) proposes to amend *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the State Implementation Plan (SIP), to incorporate revisions in the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner.

Among the revisions being proposed are amendments to *S.C. Regulation 61-62.1, Definitions and General Requirements*, Section II - Permit Requirements, to clarify and streamline the Federally approved permitting program, which requires stationary sources planning to construct, alter or add to a source of air pollutants to first obtain a construction permit from the Department and to request an operating permit prior to placing the new or altered source into operation. The Department is also proposing to amend *S.C. Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NOx)*, to make corrections and clarifications as needed to ensure consistency with the proposed amendments to Regulation 61-62.1. In addition, the Department is proposing to amend *S.C. Regulation 61-62.5, Standard No. 4, Emissions From Process Industries*, to remove the requirements of Section IV - Portland Cement Manufacturing.

The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will require legislative review.

A Notice of Drafting for proposed amendments to Regulation 61-62, and the SIP, was published on April 22, 2005, in Volume 29, Issue No. 4, of the *South Carolina State Register*. A second Notice of Drafting, was published on November 25, 2005, in Volume 29, Issue No. 11, of the *South Carolina State Register*. A third Notice of Drafting, to extend the drafting period for these proposed amendments to Regulation 61-62, and the SIP, was published on March 24, 2006, in Volume 30, Issue No. 3, of the *South Carolina State Register*.

Discussion of Proposed Revisions

**Regulation 61-62.1, Definitions and General Requirements**

SECTION CITATION:	EXPLANATION OF CHANGE:
R. 61-62.1, Section II - Permit Requirements	Reorganized the entire Section II for clarification and to streamline the processes involved in applying for a construction permit and in requesting an operating permit.
R. 61-62.1, Section II (A)(1)(d)	A list of allowable preconstruction on-site activities that may be undertaken prior to obtaining a construction permit has been incorporated in the regulation.
R. 61-62.1, Section II (A)(3)	The timeframes for submitting written notifications for commencement of construction and for initial start-up of each new or altered source are being incorporated in the

## 10 PROPOSED REGULATIONS

- regulation to ensure consistency with other applicable requirements.
- R. 61-62.1, Section II (A)(5) Added an 18-month construction permit expiration period in the regulation to be incorporated as a “Standard Permit Condition.”
- R. 61-62.1, Section II (B) - Exemptions Section II (F) redesignated as Section II (B) - Exemptions. Allowances for construction permit exemptions have been expanded by including more small sources and by applying the “less than 1 pound per hour” emission thresholds to other criteria pollutants (i.e., sulfur dioxide, nitrogen oxides, and carbon monoxide).
- R. 61-62.1, Section II (B)(3) Establishes a list of sources that are exempt without further review from the requirement to obtain a construction permit.
- R. 61-62.1, Section II (B)(5) Incorporated procedures for requesting exemptions for new sources similar to sources already on the Department maintained list.
- R. 61-62.1, Section II (C)(3) Clarified the information that needs to be provided in a construction permit application to help ensure submittal of complete applications and to decrease delays in permit activity associated with requests for more information.
- R. 61-62.1, Section II (D) New provisions added for the development of general construction permits which will facilitate the permitting process for similar sources certifying qualification for and agreeing to the conditions and terms of the general construction permit.
- R. 61-62.1, Section II (E) Amended the section pertaining to “synthetic minor permits” to clarify that this section addresses only construction permits, and not operating permits, for sources requesting federally enforceable limits for any purpose.
- R. 61-62.1, Section II (E)(3) Synthetic minor construction permit conditions have been added for clarification.
- R. 61-62.1, Section II (E)(5) Synthetic minor construction permit application requirements have been added.
- R. 61-62.1, Section II (F) Reorganized and clarified the sections pertaining to minor source operating permits.
- R. 61-62.1, Section II (F)(2) Added new provisions requiring certification of construction when requesting an operating permit.
- R. 61-62.1, Section II (G) Revised the “conditional major” section to address federally enforceable operating permits. Anyone with federally enforceable construction permits must have a conditional major (or a Title V) operating permit. The Department will



issue a conditional major operating permit to those sources that received a synthetic minor construction permit. Existing sources may also apply for a conditional major operating permit to implement federally enforceable limits.

R. 61-62.1, Section II (H)

Added a new Section II (H) for clarification of operating permit renewal request requirements.

R. 61-62.1, Section II (I)

Added new Section II (I) to develop and implement registration permits for various types of true minor sources applicable to the construction or operation of that specific category of stationary sources, thus eliminating the requirement for submittal of typical construction permit applications.

R. 61-62.1, Section II (J)

"Standard Permit Conditions" and "Special Permit Conditions" have been consolidated.

R. 61-62.1, Section II (K)

"Exceptions" have been moved and amended to create a stand alone section applicable to any permit.

R. 61-62.1, Section II (L)

"Emergency Provisions" have been moved and amended to create a stand alone section applicable to any permit.

R. 61-62.1, Section II (M)

Minor changes were made to the "Transfer of Ownership/Operation" language.

R. 61-62.1, Section II (N)

Moved the "Public Participation Procedures" (except "PSD" requirements) to a separate Section II (N) and included Department prerogative to require notice even where not required by regulation and to allow alternative methods or procedures for posting public notices.

**Regulation 61-62.5, Air Pollution Control Standards, Standard No. 4 - Emissions From Process Industries**

SECTION CITATION:

EXPLANATION OF CHANGE:

Standard No. 4, Section IV

Deleted the requirements of and reserved Section IV because all existing Portland Cement Manufacturing sources subject to Section IV are currently subject to, and will continue to be subject to, more stringent Federal rules.

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### Regulation 61-62.5, Air Pollution Control Standards, Standard No. 5.2 - Control of Oxides of Nitrogen (NOx)

SECTION CITATION:	EXPLANATION OF CHANGE:
Standard No. 5.2, Section I (a)(1)	Clarified applicability to sources constructed after June 25, 2004, the date this regulation was published as final in the <i>South Carolina State Register</i> .
Standard No. 5.2, Section I (b)(2)	Proposed amendments to ensure that exemptions are consistent with proposed amendments to Regulation 61-62.1, Section II - Permit Requirements.
Standard No. 5.2, Section I (b)(4)	Included exception for waste heat recovery from combustion control devices for exclusion from exemption.
Standard No. 5.2, Section III, Table 1	"Fuel Combustion Sources not Otherwise Specified" - Clarified the example source type concerning process heaters.

#### Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on August 28, 2006, at 10:00 a.m. in room 3380 at the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to receive comments from interested persons on the proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP.

Interested persons are also provided an opportunity to submit written comments to Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on August 28, 2006. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4284.

#### Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:

Interested members of the public and regulated community are invited to comment on the proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on October 12, 2006. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit comments on the proposed amendments to Dennis Camit at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, Regulatory Development Section, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4284. To be considered, comments must be received no later than 5:00 p.m. on August 28, 2006. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on October 12, 2006, as noticed above. Comments received shall be submitted to the Board in a Summary of Public comments and Department Responses.

**Preliminary Fiscal Impact Statement:**

The proposed regulations will not result in any increased costs to the State or its political subdivisions. Existing staff and resources will be utilized to implement these amendments. The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will benefit the Department by conserving resources associated with the review of construction permit applications and operating permit requests, and by facilitating compliance inspections conducted by regional staff.

**Statement of Need and Reasonableness:**

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

DESCRIPTION OF REGULATION: Amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*.

*Purpose of Regulation:* These amendments will incorporate revisions in the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. The Department's proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, will streamline the process for obtaining a construction permit and for requesting an operating permit. These amendments will clarify the permitting process, provide more permitting options, and reduce the overall burden on the State permitting program and the regulated community.

*Legal Authority:* The legal authority for *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, is S.C. Code Section 48-1-10 *et seq.*

*Plan for Implementation:* The proposed amendments will take effect upon approval by the South Carolina Board of Health and Environmental Control, ratification by the General Assembly, and publication in the *South Carolina State Register*. Copies of the final regulation will be distributed to all stakeholders and the regulated community through electronic mail and by way of the postal service to a mailing list of interested parties, and via the internet on the Department web site.

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

The Department has conducted an analysis of the State air permitting program to ensure that we are meeting our goals of promoting and protecting the public health and the environment and doing so in the most efficient and effective manner. The Department proposes to amend *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, to implement amendments that would streamline the process for obtaining a construction permit and for requesting an operating permit. This Federally approved permitting program is generally referred to as the minor source permitting program to distinguish it from additional permitting requirements for major sources of air pollutants.

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Among the revisions being proposed are amendments to *S.C. Regulation 61-62.1, Definitions and General Requirements*, to clarify the prerequisites and streamline the processes prescribed by Section II - Permit Requirements, which requires stationary sources planning to construct, alter or add to a source of air pollutants to first obtain a construction permit from the Department and to request an operating permit prior to placing the new or altered source into operation. The Department is also proposing to amend *S.C. Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NOx)*, to make corrections and clarifications as needed to ensure consistency with the proposed amendments to Regulation 61-62.1, Section II - Permit Requirements. In addition, the Department is proposing to amend *S.C. Regulation 61-62.5, Standard No. 4, Emissions From Process Industries*, to remove the requirements of Section IV - Portland Cement Manufacturing.

The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will incorporate revisions to the Federally approved State minor source permitting program that would support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner and will require legislative review.

### DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions, nor will the proposed amendments result in any increased cost to the regulated community. The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, will benefit the Department by conserving resources associated with the review of construction permit applications and operating permit requests, and by facilitating compliance inspections conducted by regional staff. The Department believes that the proposed amendments will benefit the regulated community by clarifying the requirements for obtaining a permit, by ensuring consistency in permit conditions for construction and operating permits issued to similar sources, and by increasing the permit options available to a source.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions. The proposed revisions will clarify the permitting process, provide more permitting options, and reduce the overall burden on the State permitting program and the regulated community.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to *S.C. Regulation 61-62, Air Pollution Control Regulations and Standards*, and the SIP, will provide continued protection of the environment and public health.

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

There would be no detrimental effect on the environment and public health if these amendments to the Federally approved State minor source permitting program are not adopted. The intent of these proposed amendments is to streamline the permitting process in support of the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner.

### STATEMENT OF RATIONALE:

In December of 2002, the South Carolina Chamber of Commerce Environmental/Technical Committee (Chamber Technical Committee) submitted a White Paper for consideration by the Department to address streamlining of the air construction permitting process. The Chamber Technical Committee's proposal was intended to be developed into guidance which would be available for use by permit engineers and the regulated community in order to reduce the time and resources needed for minor new construction projects or modifications to existing sources. The intent of the Chamber Technical Committee's proposal, and resulting guidance

document, was to ensure that all administrative and substantive requirements are satisfied and at the same time allow for operational flexibility for facilities subject to *S. C. Regulation 61-62, Air Pollution Control Regulations and Standards*.

The Department created an internal Streamlining Workgroup to study ways to provide permitting staff and the regulated community with terminology, tools, and workshops to make the environmental permitting process more efficient. The Department's Streamlining Workgroup targeted several problem areas believed to be significant obstacles to timely issuance of permits. Incomplete and inaccurate applications were determined to create a major backlog in the permitting process, thus hampering South Carolina industry's ability to respond to changing markets. The Department has proposed amendments to the regulations that are more prescriptive with reference to information required to be submitted with construction permit applications and has drafted new permit application forms to help ensure more complete and accurate submittals.

The Department organized a Permit Streamlining Stakeholders Workgroup consisting of Department staff and representatives from environmental groups and the regulated community to propose regulatory amendments to address problems identified in the Chamber Technical Committee's White Paper. After several stakeholder meetings, the proposed amendments to S. C. Regulation 61-62 were developed by consensus. The Department has agreed to expand the list of sources exempt from the requirement to obtain a construction permit and has drafted several guidance documents to facilitate the permitting process. The Department has also started to provide advanced technical workshops to the regulated community to prepare facilities for new or modified regulatory requirements, including training for future emissions inventory submittals, training for dry cleaners and other small businesses, and training for sources subject to new Maximum Achievable Control Technology (MACT) requirements. These activities and the proposed amendments will provide additional clarity and specificity to the existing regulations.

**Text of Proposed Amendments to Regulation 61-62 for Public Comment:**

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

Document No. 3070  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: 1976 Code Section 44-55-10 *et seq.*

R. 61-58. State Primary Drinking Water Regulations

**Preamble:**

The Department proposes to revise the State Primary Drinking Water Regulation to include requirements promulgated under the National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Stage 2 Disinfectants and Disinfection Byproducts Rule was published in the January 4, 2006 Federal Register.

In addition, the Department proposes to revise the State Primary Drinking Water Regulation to include requirements promulgated under the National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Long Term 2 Enhanced Surface Water Treatment Rule was published in the January 5, 2006 Federal Register

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In addition, the Department proposes to revise the State Primary Drinking Water Regulation to include requirements promulgated under the National Primary Drinking Water Regulations: Minor Corrections and Clarification to Drinking Water Regulations; National Primary Drinking Water Regulations for Lead and Copper. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. Minor Corrections and Clarification to Drinking Water Regulations; National Primary Drinking Water Regulations for Lead and Copper was published in the June 29, 2004 Federal Register.

A Notice of Drafting for this proposed amendment was published in the State Register on March 24, 2006. The proposed regulations will comply with federal law and are exempt from legislative review. These regulatory amendments are exempt from the requirement for a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because each change is necessary to maintain compatibility and consistency with federal law and regulations.

### Section-by-Section Discussion of Proposed Revisions

#### SECTION

#### CHANGE

R.61-58.A	Revised introductory paragraph to include new sections being added in this revision.
R.61-58.B	Fifteen (15) new definitions are added and three (3) are revised in alphabetical/numerical order.
R.61-58.5.I(3)(b)(iv)	Revised to add clarifying language.
R.61-58.5.I(3)(e)	Revised to add clarifying language.
R.61-58.5.I(3)(f)	Revised to correct a reference.
R.61-58.5.K(3)(a)	Detection limit for Uranium is added.
R.61-58.5.L	Section is deleted and reserved, as it no longer applies.
R.61-58.5.M	Section is deleted and reserved, as it no longer applies.
R.61-58.5.P(1)	Revised to remove TTHM and HAA5 requirements.
R.61-58.5.P(1)(b)	Revised to delete language that no longer applies and identify best available technology.
R.61-58.5.P(2)	Added to establish TTHM and HAA5 requirements.
R.61-58.6.D(2)(a)	Revised to change record retention requirements.
R.61-58.6.D(2)(f)	Added to establish retention requirements for monitoring plans.
R.61-58.6.E(11)	Added to establish special public notice requirements for Long Term 2 Enhanced Surface Water Treatment Rule.
R.61-58.10.E(1)(d)	Revised to change compliance date.
R.61-58.10.E(4)	Revised to change compliance date.

R.61-58.10.H(1)(d)	Revised to change a compliance date.
R.61-58.10.I(1)(c)	Revised to change a compliance date.
R.61-58.10.I(4)(b)	Revised to allow the Department to approve a more representative TTHM and HAA5 data set.
R.61-58.10.I(4)(e)	Revised to add clarifying language and correct typographical error.
R.61-58.10.I(7)(d)(b)	Revised to delete outdated language.
R.61-58.10.I(7)(d)(c)	Revised to correct typographical error.
R.61-58.10.K	Added to establish requirements of the Long Term 2 Enhanced Surface Water Treatment Rule.
R.61-58.12.C(4)(d)(iv)(B)	Revised to include additional reporting requirements for Stage 2 Disinfection Byproducts Rule.
R.61-58.12.C(4)(d)(iv)(C)	Revised to include additional reporting requirements for Stage 2 Disinfection Byproducts Rule.
R.61-58.13.B(5)	Revised to add clarifying language.
R.61-58.13.C(1)(e)	Revised to delete text that no longer applies.
R.61-58.13.C(2)(a)(i)(C)	Revised to add clarifying language.
R.61-58.13.C(2)(a)(ii)(C)	Revised to add clarifying language.
R.61-58.13.C(2)(a)(iv)(C)	Revised to add clarifying language.
R.61-58.13.C(2)(a)(vi)	Added to establish reduced monitoring requirements for source water TOC.
R.61-58.13.C(2)(c)(ii)(A)	Revised to end existing reduced monitoring criteria for bromate on March 31, 2009.
R.61-58.13.C(2)(c)(ii)(B)	Establish new reduced monitoring criteria for bromate beginning on April 1, 2009.
R.61-58.13.D(3)(b)(i)	Revised to correct two references.
R.61-58.13.D(3)(b)(ii)	Revised to correct two references.
R.61-58.13.D(4)	Revised to correct reference.
R.61-58.13.F(1)(b)(ii)	Revised to specify analytical requirements for magnesium hardness and correct typographical error.
R.61-58.14	Added to establish requirements of the Initial Distribution System Evaluation.
R.61-58.15	Added to establish Stage 2 Disinfection Byproducts Requirements.

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Appendix A. I	Revised to correct typographical error.
Appendix A. I.A(8)	Revised to correct reference.
Appendix A. I.A(10)	Revised to correct reference.
Appendix A. I.B(2)	Revised to change endnote.
Appendix A. I.B(11)	Revised to change endnote.
Appendix A. I.B(12)	Revised to change endnote.
Appendix A. I.G(1)	Revised to add reference to new regulations.
Appendix A. I.G(2)	Revised to add reference to new regulations.
Appendix A. endnote 1	Deleted incorrect language and corrected a typographical error.
Appendix A. endnote 14	Revised to establish compliance date.
Appendix A. endnote 22	Added endnote to specify tier violation for Long Term 2 Enhanced Surface Water Treatment Rule.
Appendix B G(77)	Revised to change endnote.
Appendix B H(80)	Revised to change reference.
Appendix B endnote 4	Revised to change date.
Appendix B endnote 8	Revised to change two dates.
Appendix B endnote 18	Revised to add clarifying language and clarify compliance dates.
Appendix B endnote 19	Revised to clarify compliance dates for Stage 2 Disinfection Byproducts Rule.

### **Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:**

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment to R.61-58 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on October 12, 2006. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items in the order presented on its agenda. The Department publishes the agenda 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment of R.61-58 by writing Doug Kinard, at Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; Fax number (803) 898-4215. Written comments must be received no later than 5:00 p.m. on September 1, 2006. Comments received by the deadline shall be submitted in a Summary



of Public Comments and Department Responses for the Board's consideration at the public hearing, as noticed above.

Copies of the text of the proposed amendments for public notice and comment may be obtained by contacting Doug Kinard at Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201: Telephone number (803) 898-4300; Fax number (803) 898-4215.

**Statement of Need and Reasonableness:**

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

**DESCRIPTION OF REGULATION:** Amendment to Regulation 61-58, State Primary Drinking Water Regulations

**Purpose:** The Department proposes to revise the State Primary Drinking Water Regulations to include requirements promulgated under the National Primary Drinking Water Regulations: Stage 2 Disinfectants and Disinfection Byproducts Rule. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Stage 2 Disinfectants and Disinfection Byproducts Rule was published in the January 4, 2006 Federal Register.

In addition, the Department proposes to revise the State Primary Drinking Water Regulations to include requirements promulgated under the National Primary Drinking Water Regulations: Long Term 2 Enhanced Surface Water Treatment Rule. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Long Term 2 Enhanced Surface Water Treatment Rule was published in the January 5, 2006 Federal Register

In addition, the Department proposes to revise the State Primary Drinking Water Regulations to include requirements promulgated under the National Primary Drinking Water Regulations: Minor Corrections and Clarification to Drinking Water Regulations; National Primary Drinking Water Regulations for Lead and Copper. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. Minor Corrections and Clarification to Drinking Water Regulations; National Primary Drinking Water Regulations for Lead and Copper was published in the June 29, 2004 Federal Register.

A Notice of Drafting for this proposed amendment was published in the State Register on March 24, 2006. The proposed regulations will comply with federal law and are exempt from legislative review.

**Legal Authority:** The State Primary Drinking Water Regulations are authorized by S.C. Code Ann. 44-55-10 et. seq., State Safe Drinking Water Act.

**Plan for Implementation:** The proposed amendments would be incorporated within R.61-58 upon approval of the S.C. Board of Health and Environmental Control and publication in the State Register as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented.

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

The adoption of these regulations will allow the Department to continue being the primacy agency for the implementation of the Safe Drinking Water Act and the National Primary Drinking Water Regulations in the state. This action is mandated by the 1996 amendments to the Federal Safe Drinking Water Act. The proposed regulations will comply with 40 CFR Parts 141 and 142.

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**DETERMINATION OF COSTS AND BENEFITS:** These regulatory amendments are exempt from the requirement for a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because each change is necessary to maintain compatibility and consistency with federal law and regulations.

The Stage 2 DBPR will result in increased costs to public water systems for improved treatment to reduce public exposure to potentially harmful disinfection by-products and additional monitoring. This rule will apply to all public water systems, which add a primary or residual disinfectant other than ultraviolet light or deliver water that has been treated with a primary or residual disinfectant other than ultraviolet light. EPA has estimated that the total national annualized present value costs to water systems for implementing the Stage 2 DBPR is approximately \$79 million per year. This estimate includes annualized costs to utilities (\$77 million/year), and annualized costs to States and Tribal governments (\$2 million/year). EPA's estimated national benefit resulting from this rule varied greatly due to the inability on the part of EPA to establish a direct causal link between elevated disinfection byproducts and some adverse health outcomes.

The LT2ESWTR will result in increased costs to public water systems by requiring improved cryptosporidium removal, monitoring, and disinfection benchmarking for some systems. The rule will only apply to surface water systems or groundwater systems under the influence of surface water. EPA has estimated that the total national annualized present value costs for implementing the LT2ESWTR is between \$93 million and \$150 million. This estimate includes costs to utilities (\$92 million - \$149 million) and costs to states (approximately \$1 million). EPA has estimated the annual present value of the mean benefit of the LT2ESWTR ranging from \$131 million to \$2.8 billion.

Costs incurred by public water systems or the state due to minor changes in unregulated contaminant monitoring and Consumer Confidence Reports will be minimal.

**UNCERTAINTIES OF ESTIMATES:** Considerable

**EFFECT ON ENVIRONMENT AND HEALTH:** There will be no effect on the environment. The amendments will promote public health through improved drinking water quality.

**DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:** There will be no detrimental effect on the environment if the amendments are not implemented. However, there could be an adverse impact on public health if the amendments are not implemented.

### **Statement of Rationale:**

The proposed changes are necessary to maintain compatibility and consistency with federal law and regulations.

### **Text :**

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

Document No. 3060  
**DEPARTMENT OF CONSUMER AFFAIRS**  
CHAPTER 28  
Statutory Authority: 1976 Code Section 40-68-20

28-1000. Professional Employer Organizations.

**Synopsis:**

In 2005, the General Assembly passed its Act No. 112, revising Title 40 Chapter 68 of the Code, which deals with the licensing and regulation of Professional Employer Organizations. The proposed revisions to the existing regulations will clean up the regulations and conform them to the revised Code. A substantial portion of the language of the existing regulations was redundant to the statute, and the revisions delete that text. The proposed regulation deletes the entire existing regulations 28-905 through 28-995, and replaces it with a new renumbered regulation 28-1000 (with subparts A-L), which is substantially shorter than the existing regulations. The renumbering is necessary to eliminate a confusing numbering structure in the current Consumer Affairs regulations. It also allows there to be a separate title for professional employer organizations portion which is lacking in the current regulations.

**Instructions:**

Delete existing Regulations 28-905 through 28-995 and create Regulation 28-1000 using the language provided in the Text portion below.

**Text:**

A. Definitions.

- (1) "Biennium" means the two-year licensing cycle which ends on September 30 of every odd-numbered year.
- (2) "Co-employer" means either a professional employer organization or a client company, as defined in Section 40-68-10 (2) and (10).
- (3) "Co-employment relationship" means a relationship which is intended to be an ongoing relationship rather than a temporary or project specific one, wherein the rights, duties, and obligations of an employer which arise out of an employment relationship have been allocated between co-employers pursuant to a professional employer agreement and the Professional Employer Organization Act, S.C. Code Ann. Section 40-68-10 et seq.
- (4) "Temporary help services" means services consisting of a person:
  - (a) recruiting and hiring its own employees;
  - (b) finding other organizations that need the services of those employees;
  - (c) assigning those employees to perform work at or services for the other organizations to support or supplement the other organizations' workforces, or to provide assistance in special work situations such as, but not limited to, employee absences, skill shortages, seasonal workloads, or to perform special assignments or projects; and
  - (d) customarily attempting to reassign the employees to other organizations when they finish each assignment.

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### B. Application Procedure; Application Form; Fees; Denial of Application; Request for Hearing.

(1) Applicants for licensure as a professional employer organization or as a controlling person shall file a completed application on forms provided by the Department. An application is complete when all items on the application have been fully answered, all required documentation has been submitted and the applicable fees as specified in Section 40-68-30 have been paid.

(2) An applicant must cure all deficiencies in its application as noted by the Department within 90 days from the date of the letter notifying the applicant of the deficiency or the application will be denied as incomplete. Applicants who have not cured all deficiencies within 90 days of the notification will be required to re-file with the Department a new application accompanied by a non-refundable application fee.

(3) Any entity applying for licensure as a professional employer organization or professional employer organization group, must be validly organized in the State of South Carolina, or otherwise appropriately registered as a foreign entity with the South Carolina Secretary of State.

(4) The burden of showing qualification for licensure shall be on the applicant.

(5) If the department determines that an applicant is not qualified for licensure, it shall notify the applicant in writing, citing the specific reason for that determination. Any person aggrieved by the decision shall be entitled to a contested case hearing before the Administrative Law Court provided the hearing is requested in writing no later than 30 days from the issuance of such determination pursuant S.C. Code Ann. Sections 1-23-310, 40-68-160 and Rule 11 of the Rules of Procedure for the Administrative Law Court.

### C. License Renewal Procedures; Inactive License Renewal.

In the event any licensee fails to renew the license, the license shall automatically become delinquent. A license delinquent 30 days or less may be returned to active status by the payment of the biennial license renewal fee and a delinquent fee of five hundred dollars.

### D. Assessment on Gross South Carolina Payroll.

(1) The department may assess each professional employer organization and each professional employer organization group a biennial assessment based upon the preceding calendar year's gross South Carolina payroll of the company or group. This assessment shall be made if the department determines that licensing fees are not sufficient to cover all costs for its program for licensing and regulation of professional employer organization services. The assessment shall be due on August 1 of every even-numbered year and shall become delinquent after August 31.

(2) In order to ensure compliance with the requirements of subsection (1), each licensee shall annually by April 1 submit copies of all South Carolina Department of Revenue "Fourth Quarter/Annual Reconciliation of Income Tax Withheld" forms WH-1606 for the preceding calendar year.

(3) Licensees who do not submit assessment fees to the department by the August 31 deadline must pay the assessment fee and a late penalty fee of one hundred fifty dollars for every thirty days or portion thereof it is late. If it is late more than sixty days, the licensee may be subject to disciplinary action as set forth in Section 40-68-160 (C).

### E. The Documentation Submitted to Demonstrate Net Worth.

(1) The documentation submitted to establish net worth must be prepared by an independent Certified Public Accountant licensed to practice public accounting as of the date of the accountant's report and must be in the format of independently audited accrual basis financial statements, as determined by generally accepted accounting principles, for the two (2) most recent annual accounting periods preceding the date of application,

except that if the most recent accounting period ends within 180 days of the date of application, the current year's financial statement shall be submitted within 180 days of the end of the accounting period.

(2) The following additional documents must be submitted for a determination and verification of the amount of net worth of a professional employer organization or a professional employer organization group:

- (a) Verification that federal, state, and local payroll taxes (including unemployment compensation taxes/insurance) have been paid on a timely basis as required by regulations of each taxing authority;
- (b) Verification that all health insurance, life insurance, worker's compensation insurance premiums and any other employee benefits accruing either to employees or their dependents have been and are being paid on a timely basis to the proper payees as required by contract, law, or other obligatory documents.

(3) Any documentation submitted to the department to verify the amount of net worth or the payment of payroll taxes and other obligations shall be prepared as of a date not earlier than six months or 180 days before the date of application. Information supplied regarding net worth is proprietary and confidential and is exempt from disclosure to third parties.

(4) The following items may be used to cover any deficit in net worth revealed by the most current financial statements in the amount sufficient to cover the deficiency: infusion of capital, an acceptable bank letter of credit, mortgages, bonds, a promissory note supported by collateral, or a guarantee where the guarantor can satisfy the department that the guarantor has sufficient assets to satisfy the obligation of the guarantee.

(5) At the time of an application for an initial license by a professional employer organization that has not had sufficient operating history to have audited financial statements based upon at least twelve months of operating history, the applicant must meet the net worth requirements of S.C. Code Ann. Section 40-68-40(E) and present a business plan and pro forma financial statements reviewed by a certified public accountant. Thereafter, such applicant shall present, within 180 days after the end of its fiscal year, audited financial statements.

#### F. Annual Audited Financial Statements.

(1) All professional employer organizations or professional employer organization groups must submit annual audited financial statements to the department within 120 days of the licensee's fiscal year end. For purposes of this regulation, "submitted" means that the audited financial statement must be postmarked within 120 days of the end of the licensee's fiscal year.

(2) All audited financial statements must be prepared in accordance with generally accepted accounting principles (GAAP), and generally accepted auditing standards (GAAS) must be used.

#### G. Quarterly Financial Reporting and the Maintenance of Sufficient Working Capital.

In order to be in compliance with the net worth requirements of Section 40-68-40(E), licensed professional employer organizations and professional employer organization groups are required to file a quarterly financial attestation with the department. This quarterly attestation report shall be executed by the chief financial officer, the chief executive officer, and a controlling person of the professional employer organization. Copies of the current quarter's balance sheet and income statement shall be submitted with the quarterly financial attestation report. Quarterly financial statements are due to be submitted to the department within 75 days after the end of each quarter. Quarterly financial reports that are submitted late without prior approval from the department will be assessed a late reporting fee of one hundred fifty dollars for every thirty days or portion thereof they are late. If they are late more than sixty days, the licensee may be subject to a disciplinary action as set forth in Section 40-68-160 (C). The following attestations will be made in the quarterly report:

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- (1) Health insurance, life insurance, worker's compensation insurance and their respective premiums and any other employee benefits have been paid to the proper payees;
- (2) Working capital is sufficient to meet the licensee's ongoing obligations;
- (3) Federal, state, and local payroll taxes have been paid as required by regulations of each taxing authority.

### H. Restricted License.

- (1) The department may issue a restricted license to a nonresident professional employer organization or professional employer organization group for limited operation within this State under the conditions set forth in Section 40-68-90.
- (2) The biennial licensing fee for a restricted license shall be five hundred dollars for a professional employer organization and one thousand dollars for a professional employer organization group.
- (3) The holder of a restricted license shall provide to the department quarterly reports on a form developed by the department with information and documentation necessary to show that the holder continues to qualify for a restricted license.
- (4) When any condition for an issuance of a restricted license ceases to exist, the licensee shall apply within thirty days for a license pursuant to Sections 40-68-30, 40-68-40, 40-68- 50 and any other applicable provision of the professional Employer Organization Act and accompanying regulations or cease operations in the State.

### I. Certification of Workers' Compensation Coverage.

Professional employer organization applicants or licensees must provide to the department a Certificate of Insurance for their workers' compensation coverage. This certificate must be issued by an insurance carrier licensed in South Carolina and must name the Department of Consumer Affairs as Certificate Holder and provide for thirty (30) days notice of cancellation.

### J. Notices Required to be Posted.

- (1) The license issued by the department must be posted in a conspicuous place in the licensee's principal place of business in this State.
- (2) The licensee shall cause each client company to display, in a place that is in clear and unobstructed public view, a notice stating that the business operated at the location is in a co-employment relationship with the professional employer organization licensed and regulated by the department and that any questions or complaints regarding the professional employer organization should be directed to the department. The notice shall contain the Department's mailing address, web address and phone number. A copy of such notice shall be provided to the Department. A substantially similar notice shall be included in the contract between a licensee and a client company.
- (3) The licensee shall cause each client company to post in each of its places of business in a conspicuous place that is in clear and unobstructed view of the assigned employees a notice stating, substantially, the following:

"We are operating under and subject to the Workers' Compensation Act of South Carolina. In case of accidental injury or death to an employee, the injured employee, or someone acting on his or her behalf, shall notify immediately (insert the name of professional employer organization, including a contact address and telephone

number). Failure to give immediate notice may be the cause of serious delay in the payment of compensation to you or your beneficiaries and may result in failure to receive any compensation benefits.”

K. Inspections; Investigations; Complaints.

(1) The department may conduct inspections or investigations as necessary to enforce the Professional Employer Organization Act, the accompanying regulations or an order of the administrator or the Administrative Law Court related to these provisions. In conducting such an inspection or investigation of a person, the department may enter the business premises of the person during reasonable business hours and may examine and copy records pertinent to the inspection or investigation.

(2) The department shall keep a file about each written complaint filed with the department against a professional employer organization that the department has authority to resolve.

L. Reporting of Change of Status Required; Effect on Licensees.

The Department shall develop forms for the reporting of changes in status of licensed companies and controlling persons. These forms shall specify the information required to be filed for all changes in the status, and the deadlines for filing such changes with the department. The department may charge a filing fee for each change not to exceed fifty dollars.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Rationale:**

The purpose of the revisions is to conform the Department’s regulations with Act No. 112 of 2005. There was no scientific or technical basis relied upon in the development of this regulation.

**Resubmitted May 22, 2006**

Document No. 3026  
**MARITIME SECURITY COMMISSION**  
 CHAPTER 80  
 Statutory Authority: 1976 Code Section 54-17-50

Chapter 80. The South Carolina Maritime Security Commission and Naval Militia

- 80-001. Functions of the South Carolina Maritime Security Commission.
- 80-005. Functions of the South Carolina Naval Militia.
- 80-010. Organization of the SCNM.
- 80-015. Regulations of the SCNM.
- 80-020. Volunteer Port Security Force at Charleston, South Carolina.
- 80-025. S. C. Naval Militia Ensign.

**Synopsis:**

The General Assembly passed the South Carolina Maritime Security Act of 2003 (Section 54-17-10, et al) that reestablished the South Carolina Naval Militia, established a Maritime Security Commission, and requires that Commission to promulgate regulations that set forth the command structure of the Naval Militia. Further, the Commission must organize, administer, coordinate and facilitate the activities of the Naval Militia in order to

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provide to federal, state, county and local agencies adequate numbers of trained and qualified personnel with proper accountability and adequate indemnification provisions to enhance maritime homeland security operations. Prior to going operational, a Memorandum of Agreement must be in effect between the State and the United States Navy detailing fiduciary responsibilities, potential liability, and federal support issues. The establishment of the command structure is a prerequisite to this Memorandum of Agreement.

**Instructions:** Add new Chapter 80.

### **Text of Regulation:**

80-001. Functions of the South Carolina Maritime Security Commission.

1. The South Carolina Maritime Security Commission (SCMSC) reports administratively to the Governor of the State of South Carolina as Chief Executive and operationally to the Governor as Commander-in-Chief of State Forces.
2. The SCMSC consists of nine commissioners and is headed by a Chairman and Vice Chairman elected by the members. It will meet at the direction of the Chairman at least quarterly. A quorum consists of a simple majority of the commissioners appointed by the Governor who are present. Ex-officio members are excluded from the quorum. If a quorum is not available, actions are effective as if made by a quorum but implemented on an interim basis until validated by a quorum.
3. The SCMSC reviews all requests for operational tasking for the SCNM. It will ensure compliance with federal and state law, pertinence to Captain of the Port requirements and other applicable policies and procedures, operational tempo and consider availability of volunteer SCNM assets.
4. The SCMSC shall publish and maintain a *Policies and Procedures Manual (PPM)*. The PPM shall provide guidance regarding the administration of matters coming before the SCMSC.
5. The Chairman of the SCMSC annually shall submit a report to the Governor and to the General Assembly that will include a summary of the activities and operations of the SCMSC and the SCNM during the previous calendar year, and shall contain such general observations and recommendations relating to maritime security, as the SCMSC deems appropriate.

80-005. Functions of the South Carolina Naval Militia.

1. The South Carolina Naval Militia (SCNM) is a Federally recognized State force pursuant to 10 USC 261 and 10 USC 311, organized, commanded and administered as a component of the Organized Militia of the State of South Carolina.
2. The mission of the SCNM is to provide a trained maritime capability to support Federal and State maritime services as may be coordinated with the United States Navy, United States Marine Corps, United States Coast Guard, and other federal, state and local agencies and authorities as appropriate.
3. Federal reservists who serve in the SCNM will receive courtesies, rights and privileges extended to state commissioned officers or appointed civilians in the SCNM. The SCNM consists of military and civilian personnel who have the same authority, rights and privileges in the performance of duty in the SCNM as a member of the U.S. regular Navy, Marine Corps or Coast Guard of corresponding grade, rating or position as pertains to and derived from applicable South Carolina state authority, custom and tradition.
4. Except as may be otherwise provided by statute, regulation, or binding agreement by Federal or State agencies, members of the SCNM and the SCMSC shall receive no financial compensation or reimbursement while performing their respective duties and functions. However, federal reservist members of the SCNM may be



entitled to Federal Reserve benefits accruing from their service with the SCNM in accordance with applicable policies of their parent service.

#### 80-010. Organization of the SCNM.

1. The SCNM is organized, trained and equipped under direction of the Commander, SCNM (COMSCNM), pursuant to Federal and State law, conforming with the table of organization, policies, standards, and training requirements established by the Secretary of Navy and by COMSCNM.

2. The Commander, South Carolina Naval Militia (COMSCNM) ranking officer will be a one star flag officer who reports administratively and operationally to the South Carolina Maritime Security Commission (SCMSC). The Adjutant General of South Carolina is acknowledged as the ranking military officer of the State of South Carolina but is not in the SCNM administrative or operational chain-of-command. COMSCNM will recommend appointments of all officers to the state ranks. Upon approval, they will be commissioned by the Governor. COMSCNM will appoint personnel to state enlisted rates. These commissions (officers) or certificates (enlisted) will be executed by the Chairman, SCMSC on behalf of the Governor. Personnel holding state commissions or appointments may wear uniforms pursuant to coordination with respective services, custom and tradition, and in accordance with SCNM regulations.

3. COMSCNM is responsible to and reports to the SCMSC. COMSCNM will establish a staff with standard naval structure that may include but not limited to deputy commander, chief of staff, special liaisons and task forces, admin, intelligence, operations, logistics/supply, communications, training, plans/requirements, legal, public affairs (including ceremonial units), and senior enlisted and other advisers deemed necessary to the efficient and effective functioning of the Naval Militia.

4. COMSCNM is authorized to execute Memoranda of Understanding (MOU) with appropriate administrative and operational entities as pertains to the operations and functions of the SCNM. These MOUs will be witnessed by the Chairman, SCMSC.

5. There shall be three divisions to the SCNM:

(a) Division I shall constitute the Reserve Services Division. It will be comprised of members of the U. S. Naval Reserve, the U. S. Marine Corps Reserve, and the U. S. Coast Guard Reserve as authorized by a memorandum of understanding between the Coast Guard, Navy and the SCMSC. Such reservists residing in or drilling in the State of South Carolina are authorized to join the SCNM but shall do so voluntarily and on a not-to-interfere basis with their assigned duties and responsibilities in their regular Reserve component.

(b) Division II shall constitute the Merchant Marine Division. It will be comprised of personnel who are eligible to serve on United States merchant vessels because they are licensed and/or certificated by the U. S. Coast Guard. Such personnel shall voluntarily be enrolled in the SCNM. Unless otherwise entitled to military rank and rating privileges based upon prior active duty status as directed by COMSCNM, members of Division II will not be uniformed. The Volunteer Port Security Force (VPSF), although comprised of vessels and not personnel specifically identified by name, is considered part of Division II.

(c) Division III shall constitute the Support Division. It will be comprised of qualified volunteers who are not eligible for membership in Divisions I or II, but who wish to offer their services voluntarily to fill specific SCNM administrative or operational functions. The organization and structure of Division III shall be in conformance with COMSCNM directives.

#### 80-015. Regulations of the SCNM.

1. The purpose of these regulations is to ensure that the South Carolina Naval Militia is organized, administered, coordinated and facilitated pursuant to Sections 54-17-40 and 54-17-50, South Carolina Code of Laws.

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2. The organization and administration of the SCNM are established by COMSCNM and are published in SCNM publications and directives and include the following:

(a) SCNM Organization Manual, including but not limited to SCNM rules and regulations, billet structure, uniform standards, policy instructions, personnel instructions, military justice instructions, and comptroller and supply instructions.

(b) SCNM Foundation Manual. The Foundation budget will be proposed by COMSCNM and approved by the SCMSC. Expenditures will be executed by COMSCNM.

3. Other regulations that affect the SCNM are located in Title 10 U.S. Code. Maritime Homeland Security regulations and Coast Guard regulatory authorities are located in Title 33 of the Code of Federal Regulations.

80-020. Volunteer Port Security Force at Charleston, South Carolina.

1. The Volunteer Port Security Force (VPSF) at the Port of Charleston is comprised of United States vessels operated commercially at Charleston. In May 2002, recognizing that VPSF vessel crews are likely to be among the first persons to notice unusual or suspicious activities on the harbor, the owners of these vessels voluntarily organized their assets under the auspices of the Maritime Association Port of Charleston (MAPCHA) to provide Maritime Domain Awareness (MDA) to the FMSC as exemplified by the VPSF crews becoming aware of suspicious circumstances and persons, and the expeditiously reporting of those observations to the Coast Guard. Around-the-clock VPSF operations run concurrently with the normal operations of those VPSF vessels. A VPSF Operations Plan, approved and edited by the Coast Guard, also establishes training and communications requirements. The VPSF is under the administrative control of the SCNM and the joint operational control of the vessel owners, except when the FMSC takes control under the provisions of 33 CFR Parts 6, 160 and 165. The VPSF is administratively a part of Division II to pursue its MDA mission during Maritime Security (MARSEC) Levels 1 and 2. During MARSEC Level 3, the VPSF mission may be coordinated by COMSCNM in accordance with FMSC directives and guidance.

2. The crews of most VPSF vessels are entirely comprised of professional mariners who are licensed by the Coast Guard as Merchant Marine Officers and/or who hold Coast Guard-issued Merchant Mariners Documents. The regulatory requirements for Merchant Marine license and document issuance are contained in 46 CFR Parts 10 and 12, and include experience requirements, examination subjects, physical standards, and renewal provisions. Drug testing requirements are contained in 46 CFR 16. Disciplinary provisions are contained in 46 CFR 5. Merchant vessel manning requirements are contained in 46 CFR 15.

3. Provided that the senior vessel operator on board is a member of either Division I or Division II of the SCNM, and only when directed by COMSCNM, the owner of such a VPSF vessel may visually designate that vessel as an SCNM vessel by displaying the SCNM ensign on the halyard next below the national ensign or at such other appropriate location as directed by COMSCNM. VPSF vessels operating under the SCNM ensign shall be considered to be performing official and necessary Maritime Homeland Security functions related to the continuity of port operations. Such VPSF vessels shall communicate and coordinate their movements with other MHLS assets. During a high MARSEC Level, and pursuant to the applicable sections of 33 CFR Parts 6, 160 and 165, the operation of such SCNM-VPSF vessels may come under the operational control of the COTP. Under those conditions, they shall not be impeded in the performance of those necessary functions unless directed otherwise by the FMSC.

4. It is anticipated that under certain conditions of MARSEC 2, and under MARSEC 3, a significant number of the vessels enrolled in the VPSF will be required to be underway to assure the continuity of commercial port operations and, therefore, be subject to supervision and control by the USCG Captain of the Port (FMSC) pursuant to 33 CFR Parts 6, 160 and 165. In these situations, communications and coordination with maritime homeland security assets will be necessary to assure continuity of port operations. These cooperative

relationships will be enhanced if the crew members on each of those vessels are also members of Division II of the SCNM. Therefore, nothing shall prevent Coast Guard licensed and/or documented crew members of VPSF vessels from being members of the SCNM. If they do not already hold Merchant Marine licenses or Merchant Mariners documents, COMSCNM may, upon application, grant temporary status as "Ordinary Seaman" while awaiting issuance of either of those Coast Guard-issued certificates.

80-025. S. C. Naval Militia Ensign.

1. COMSCNM shall authorize the display of a suitable S. C. Naval Militia ensign to be flown by vessels when such vessels are performing missions assigned to Divisions I, II, or III, of the SCNM. Such an ensign will contain the combined palmetto tree and gorget logo of the South Carolina flag and a symbolic rendition that includes an anchor depicting the naval nature of the organization.

**Fiscal Impact Statement:**

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

**Assessment Report and Public Comments:**

No assessment report was requested by any member of the General Assembly. No written comments were received in response to the proposed regulation published in the *State Register* on November 23, 2005, nor were there any requests to make oral comments at the public hearing that was scheduled for December 23, 2005.

**Statement of Rationale:**

These regulations are necessary to effectuate the statutory authority granted in Section 54-17-50(B) which requires the promulgation of regulations.

Document No. 3040  
**DEPARTMENT OF NATURAL RESOURCES**  
 CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-210, 50-3-100, 50-11-10, 50-11-65, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-430, 50-11-500, 50-11-520, 50-11-530, 50-11-854 and 50-11-2200.

**Synopsis:**

These regulations amend Chapter 123-40 in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas.

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### Instructions:

Amend Regulations 123-40 to establish changes and include additional WMA's.

### HUNTING IN WILDLIFE MANAGEMENT AREAS

#### 123-40. Wildlife Management Area Regulations.

1.1 The following regulations amend South Carolina Department of Natural Resources regulation Numbers 123-40.

1.2. The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas are as follows:

#### (L) Santee Delta WMA

Special hog hunt Shotgun with slug or muzzleloader, no buckshot, hunting from elevated stands	3 <sup>rd</sup> Wed, Thurs, Fri. in March-	Hogs only, no limit, no live hogs to be removed from WMA.
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Special hog hunt with dogs	3 <sup>rd</sup> and 4 <sup>th</sup> Sat. in March	Hogs only, no limit, handguns only, limit 4 bay or catch dogs per party. No live hogs removed from WMA.
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#### (N) Bear Island WMA

Still Gun Hunts (No dogs)	No open season except for hunters selected by computer drawing.	3 deer, either-sex except only 1 buck with a minimum 4 points on one side or a minimum 12-inch antler spread.
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#### (R) Santee Coastal Reserve WMA

Special Hog Hunt with Dogs	2 <sup>nd</sup> and 4 <sup>th</sup> Thurs. in Feb. 3 <sup>rd</sup> and 4 <sup>th</sup> Fri. in Mar.	Hogs Only, no limit, handguns only, limit of 4 bay or catch dogs per party, no live hogs to be removed from Santee Coastal.
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#### (V) Sand Hills State Forest WMA

Hunting by the general public closed during scheduled field trials on the Sand Hills State Forest Special Field Trial Area. Hunting allowed during permitted field trials on the Sand Hills State Forest Special Field Trial Area in compliance with R.123-96. No man-drives allowed. No buckshot allowed. Individual antlerless deer tags valid on days not designated as either-sex after Sept. 15

**(AA) Little Pee Dee River Complex WMA**

Special Hog Hunt With Dogs	First 5 days in March	No limit, handguns only, no more than 4 bay or catch dogs per party. No live hogs removed from WMA.
Special Hog Hunt Gun Hunt	March 6 – 3 <sup>rd</sup> Sat. in March	Hogs only, no limit, no buckshot, no bay or catch dogs.

**(EE) St. Helena Sound Heritage Preserve WMA**

Deer:

Archery Hunts  
(No dogs)

Otter Island	Nov. 1 - Nov. 30 Camping by special permit.	2 deer per season, 1 deer per day, either-sex. Hogs.
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**(JJ) Longleaf Pine WMA**

Deer Total 2 deer for all hunts combined.

Still hunting only, no deer dogs, no buckshot, no hunting from vehicles or from or on any roads open to vehicular traffic. Individual antlerless deer tags valid on days not designated as either-sex after Sept. 15.

**(QQ) Oak Lea WMA**

Data cards required for hunter access during archery deer hunts, turkey hunts and small game hunts. Completed data cards must be returned daily upon leaving Oak Lea WMA.

**(VV) Bonneau Ferry WMA**

Horse riding is prohibited. No camping is allowed. All terrain vehicles are prohibited. Hunting access by boat is prohibited. Adult/youth fishing only. For fishing, each youth may be accompanied by no more than two adults 18 years old or older. For hunting, Adult/youth Side A is open only to youth 8-17 years old who must be accompanied by only one adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt. For deer and small game hunting Sides A and B will alternate each year. All hunters must sign in and sign out upon entering or leaving Bonneau Ferry WMA. Bonneau Ferry WMA is closed to public access one hour after sunset until one hour before sunrise except, for special hunts regulated by DNR. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 – Mar. 1 except for special draw deer hunts and waterfowl hunts regulated by DNR during the regular waterfowl season.

10.8 Sandy Beach Waterfowl Area and impoundments on Bonneau Ferry WMA are closed to public access during the period 01 Nov.-01 Mar. except for special hunts designated by the Department.

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10.16 Category II Designated Waterfowl Areas include Biedler Impoundment, Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Samson Island Unit (Bear Island), Tyger River, Marsh and Wee Tee Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

### DESIGNATED WATERFOWL AREAS

Area	Open dates inclusive	Bag Limits
Delete Oak Lea WMA		

### **Fiscal Impact Statement:**

This amendment of Regulation 123-40 will result in increased public hunting opportunities, which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

### **Statement of Rational:**

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provide guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.