

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2009 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	1/9	2/13	3/13	4/10	5/8	6/12	7/10	8/14	9/11	10/9	11/13	12/11
Publishing Date	1/23	2/27	3/27	4/24	5/22	6/26	7/24	8/28	9/25	10/23	11/27	12/25

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

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

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

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

DOC. NO.	RAT. FINAL NO. ISSUE	SUBJECT	EXP. DATE	AGENCY
4043		Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	1/13/10	Workers' Compensation Commission
4054		Registration of Immigration Assistance Services	2/22/10	LLR
4055		Illegal Aliens and Private Employment	2/22/10	LLR
4058		Insurance Holding Company Systems	3/08/10	Department of Insurance
4059		South Carolina Reinsurance Facility Recoupment	3/08/10	Department of Insurance
4060		Life Insurance Disclosure	3/08/10	Department of Insurance
4061		Valuation of Investments	3/08/10	Department of Insurance
4068		Funeral Service Practice Act	3/30/10	Board of Funeral Service
4066		Long Term Care Insurance	4/21/10	Department of Insurance
4067		Law Enforcement Officer and E-911 Officer Training & Certification	4/28/10	S.C. Criminal Justice Academy
4072		Central Fill Pharmacies	5/04/10	Board of Pharmacy
Committee Requested Withdrawal				
4022		Riverbanks Parks Commission	Tolled	Riverbanks Parks Commission
Resolution Introduced to Disapprove				
4014		Environmental Protection Fees	Tolled	Department of Health and Envir Control
4015		Environmental Protection Fees	Tolled	Department of Health and Envir Control

2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4043	Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	Labor, Commerce and Industry	Judiciary
4054	Registration of Immigration Assistance Services	Labor, Commerce and Industry	Labor, Commerce and Industry
4055	Illegal Aliens and Private Employment	Judiciary	Labor, Commerce and Industry
4058	Insurance Holding Company Systems	Labor, Commerce and Industry	Banking and Insurance
4059	South Carolina Reinsurance Facility Recoupment	Labor, Commerce and Industry	Banking and Insurance
4060	Life Insurance Disclosure	Labor, Commerce and Industry	Banking and Insurance
4061	Valuation of Investments	Labor, Commerce and Industry	Banking and Insurance
4068	Funeral Service Practice Act	Labor, Commerce and Industry	Judiciary
4066	Long Term Care Insurance	Labor, Commerce and Industry	
4067	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	
4072	Central Fill Pharmacies	Medical, Military, Pub & Mun Affairs	
Committee Requested Withdrawal			
4022	Riverbanks Parks Commission	Agriculture and Natural Resources	Fish, Game and Forestry
Resolution Introduced to Disapprove			
4014	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs
4015	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs

Executive Order No. 2009-10

WHEREAS, a vacancy exists in the office of Lee County Board of Education as a result of the death of board member Will Ed McKenzie on April 5, 2009; and

WHEREAS, the undersigned is authorized to appoint a county board of education member in the event of a vacancy pursuant to Sections 1-3-220(2) and 4-11-20(1) of the South Carolina Code of Laws, as amended; and

WHEREAS, Mary Jewell Tindall residing at 2040 Lee State Park Road, Bishopville, South Carolina 29010 is a fit and proper person to serve on the Lee County Board of Education.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Mary Jewell Tindall to the Lee County Board of Education until the next general election and until her successor shall qualify. This appointment shall be effective immediately.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 22nd DAY OF JULY, 2009.

MARK SANFORD
Governor

Executive Order No. 2009-11

WHEREAS, Elizabeth M. Smith has resigned as Beaufort County Clerk of Court, effective July 30, 2009; and

WHEREAS, the undersigned is authorized to appoint a County Clerk of Court in the event of a vacancy pursuant to Sections 1-3-220(2), 4-11-20(1) and 14-17-30 of the South Carolina Code of Laws, as amended; and

WHEREAS, Jerri Ann Roseneau, residing at 330 Cottage Farm Drive, Beaufort, South Carolina, 29901, is a fit and proper person to serve as the Beaufort County Clerk of Court.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Jerri Ann Roseneau as Clerk of Court of Beaufort County until the next general election for this office and until her successor shall qualify.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 7th DAY OF AUGUST 2009.

MARK SANFORD
Governor

4 NOTICES

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.

Mandatory codes include the:

2009 Edition of the International Building Code;
2009 Edition of the International Residential Code;
2009 Edition of the International Fire Code;
2009 Edition of the International Plumbing Code;
2009 Edition of the International Mechanical Code;
2009 Edition of the International Fuel Gas Code;
2009 Edition of the International Property Maintenance Code;
2009 Edition of the International Existing Building Code.

Permissive codes include the:

2009 Edition of the International Property Maintenance Code;
2009 Edition of the International Existing Building Code;
2009 Edition of the International Performance Code for Buildings and Facilities.

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 to Gary F. Wiggins, Council Administrator, at PO Box 11329, Columbia, SC 29211-1329, on or before December 1, 2009.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

The DHEC Office of Ocean and Coastal Resource Management (DHEC OCRM) is mandated by the Coastal Tidelands and Wetlands Act (S.C. Code Ann, Section 48-39-10 et seq.) to review the position of the beachfront baseline and 40-year setback line, the state's beachfront jurisdictional lines, and erosion rates every 8 to 10 years. DHEC OCRM has reviewed the position of the baseline and the 40-year setback line for the areas listed below, made notice of proposed revisions and held public hearings to acquire public comment. The beachfront baseline and 40-year setback lines for the following areas have been finalized:

North Myrtle Beach
Seabrook Island
Hilton Head Island

Maps showing the new lines are available as PDF files that can be downloaded from the DHEC website at <http://www.dhec.sc.gov/environment/ocrm/permit/beachfront.htm>. For further information please contact DHEC OCRM project manager Bill Eiser at (843) 953-0237 or eiserwc@dhec.sc.gov.

SC. Code Section 48-39-280(E) of the Coastal Tidelands and Wetlands Act and Section F of SCDHEC Regulation 30-14 identify procedures for appealing baselines and erosion rates. Any landowner claiming ownership of affected property who feels that the final or revised setback line, baseline, or erosion rate as

adopted is in error, upon submittal of substantiating evidence, within one year of the revision date, must be granted a review of the setback line, baseline, or erosion rate, or a review of all three. This notice, published in the State Register on August 28, 2009, establishes the final revision date for the above listed areas and the date for the commencement of public review of this information. The Department shall hear all requests for review. The process for this review can be found in Section F of Regulation 30-14 http://www.dhec.sc.gov/environment/ocrm/regs/docs/CAR_0408.pdf [48-39-280(E)].

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

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 August 28, 2009, 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 Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Anderson County

Purchase of a daVinci Robotic Surgery System (dRSS) to be located on the campus of AnMed Health Women's and Children's Hospital in an existing operating room
AnMed Health Women's and Children's Hospital
Anderson, South Carolina
Project Cost: \$2,310,496

Affecting Charleston County

Renovation of existing space for the addition of a second (2nd) angiography lab
Medical University of South Carolina Medical Center
Charleston, South Carolina
Project Cost: \$3,165,100

Affecting Dillon County

Construction of a new Emergency Department that will relocate all emergency services to an addition to the existing structure
McLeod Medical Center Dillon
Dillon, South Carolina
Project Cost: \$8,392,733

Affecting Florence County

Construction of a new facility adjacent to the existing McLeod Health and Fitness Center located at Bintree Road and David L. McLeod Blvd for the relocation and expansion of the Rehabilitation and Sports Medicine Departments from their current locations on the main campus of McLeod Regional Medical Center
McLeod Regional Medical Center
Florence, South Carolina
Project Cost: \$8,476,867

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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 August 28, 2009. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Aiken County

Establishment of a home health agency restricted to serve Aiken County
CareSouth HHA Holdings of South Carolina, LLC
North Augusta, Georgia
Project Cost: \$125,000

Establishment of a home health agency restricted to serve Aiken County
Tri-County Home Health Care and Services, Inc.
Batesburg-Leesville, South Carolina
Project Cost: \$77,000

Affecting Calhoun and Orangeburg Counties

Renovation to the existing Operating Room Suite #8 for conversion to a state of the art Hybrid Vascular Surgery Suite
The Regional Medical Center of Orangeburg and Calhoun Counties
Orangeburg, South Carolina
Project Cost: \$1,361,952

Affecting Charleston County

Purchase of an intra-operative mobile O-Arm imaging system that will rotate between Operating Rooms (ORs) 6, 7 and 8 restricted to neurosurgical and spinal procedures
Bon Secours St. Francis Xavier Hospital
Charleston, South Carolina
Project Cost: \$1,204,524

Acquisition of the DISC Radiologists Practice by Carolina Family Care (CFC), a wholly owned subsidiary of University Medical Associates (UMA), in order to provide MRI services on a 1.0T Magnetic Resonance Imaging (MRI) unit approved in NA-06-13 which is located at 1341 Old Georgetown Road, Suite C, Mt. Pleasant, South Carolina
Carolina Family Care, Inc.
Mount Pleasant, South Carolina
Project Cost: \$869,495

Transfer of services from an existing office-based GI endoscopy facility with one (1) procedure room to an existing building adjacent to the facility in order to receive state licensure and Medicare certification as an endoscopy only Ambulatory Surgery Facility (ASF) and expand the current number of patient prep/recovery bays from two (2) to four (4)
West Ashley Endoscopy Center, LLC
Charleston, South Carolina
Project Cost: \$715,727

Affecting Greenville County

Construction of new space and renovation of existing space to accommodate the installation of a Phillips Allura XPER FD10 (ceiling mounted) single-plane cardiovascular Stereotaxis Magnetic Catheter Guidance System for use in the treatment of atrial fibrillation, located within Cardiac Cath Lab 4 on the third floor of Greenville Memorial Hospital; this unit will replace the existing cardiovascular imaging equipment; temporary relocation of support areas located on the 2nd floor, underneath Cardiac Cath Lab 4, due to the need for structural reinforcement and re-routing of electrical and system conduits

Greenville Memorial Hospital
Greenville, South Carolina
Project Cost: \$4,391,468

Affecting Greenville County

Renovations for the replacement of the existing mobile Magnetic Resonance Imaging (MRI) unit with a fixed 1.5T MRI unit

Northeast Columbia Diagnostic Imaging
Greenville, South Carolina
Project Cost: \$2,523,022

Affecting Horry County

Construction and renovation of existing space vacated by the relocation of the Laboratory Department (NA-08-45) and Pharmacy Department (E-08-108) for the expansion of the Emergency Department (ED); to comprise of six (6) additional exam rooms, a new sexual assault nurse examiner (SANE) exam room, four (4) new minor treatment exam rooms, an additional triage room, and two (2) additional psychiatric hold rooms

Conway Medical Center
Conway, South Carolina
Project Cost: \$4,423,500

8 DRAFTING NOTICES

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

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

Notice of Drafting:

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

Interested parties should submit written comments to Dr. Clyde B. Hoskins, Interim Director, State Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, S. C. 29224-2406. To be considered comments should be received no later than October 2, 2009, the close of the drafting comment period.

Synopsis:

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

This regulation will not require legislative action.

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

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

Notice of Drafting:

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

Interested parties should submit written comments to Dr. Clyde B. Hoskins, Interim Director, State Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, S.C. 29224-2406. To be considered comments should be received no later than October 2, 2009, the close of the drafting comment period.

Synopsis:

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

This regulation will not require legislative action.

STATE BOARD OF EDUCATION

CHAPTER 43

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

Notice of Drafting:

The State Board of Education proposes to amend R. 43-243.1, Criteria for Entry into Programs of Special Education for Students with Disabilities, relating to the criteria for entry into programs of special education for students with disabilities to incorporate the requirements included in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Part B final regulations of 2006, and Part B supplemental regulations, which became effective on December 31, 2008. Interested persons may submit comments to Marlene Metts, Director of the Office of Exceptional Children, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Rutledge Building, Room 808, Columbia, South Carolina 29201 or by e-mail to mametts@ed.sc.gov. To be considered, comments must be received no later than 5:00 P.M., September 28, 2009, the close of the drafting comment period.

Synopsis:

The proposed amendments address any revisions in state regulations necessary to comply with federal IDEA regulations concerning evaluation procedures and eligibility criteria.

Legislative review of these amendments is not required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-13-50 and 59-13-100

Notice of Drafting:

The South Carolina Department of Education proposes to repeal R. 43-162, School Superintendent Compensation and Benefits/Expenses, which states that the salary of the superintendent shall, in every case, be at a higher monthly and yearly rate than that paid principals or other members of staff. S.C. Code Sections 59-13-50 and 59-13-100 do not reference the salary of the superintendent.

Interested persons may submit written comments to Nancy W. Busbee, PhD, at the South Carolina Department of Education, Office of Federal and State Accountability, 1429 Senate Street, Suite 502-A, Columbia, SC 29201 or by e-mail at nbusbee@ed.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on September 28, 2009.

Synopsis:

R. 43-162 states that the salary of the superintendent shall, in every case, be at a higher monthly and yearly rate than that paid principals or other members of staff. S.C. Code Sections 59-13-50 and 59-13-100 do not refer to the salary of the superintendent. S.C. Code Section 59-13-50 states that the superintendent be furnished a comfortable, convenient office with suitable furniture and the office be supplied with incidentals necessary to proper transaction of the legitimate business of this office. S.C. Code Section 59-13-100 states that the superintendent shall receive actual expenses incurred in attending educational meetings and visiting schools in addition to his/her salary.

At one time, Southern Association of Colleges and Schools (SACS) did have a standard requiring the superintendent's salary be the highest in the district, and the State Board of Education regulation was changed

10 DRAFTING NOTICES

to align with the SACS standard. According to SACS State Director Billy Floyd, the SACS requirement of the highest salary for the superintendent is no longer required. General Assembly Approval will be needed.

STATE BOARD OF EDUCATION CHAPTER 43

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

Notice of Drafting:

The State Board of Education proposes to amend R. 43-243, Special Education, Education of Students with Disabilities, to incorporate the requirements included in the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Part B final regulations of 2006, and Part B supplemental regulations, which became effective on December 31, 2008. Interested persons may submit comments to Marlene Metts, Director of the Office of Exceptional Children, Division of Standards and Learning, South Carolina Department of Education, 1429 Senate Street, Rutledge Building, Room 808, Columbia, South Carolina 29201 or by e-mail to mametts@ed.sc.gov. To be considered, comments must be received no later than 5:00 P.M., September 28, 2009, the close of the drafting comment period.

Synopsis:

The proposed amendments will specifically address the revisions in the federal IDEA regulations concerning (1) parental revocation of consent after consenting to the initial provision of services; (2) a state's or local educational agency's (LEA) obligation to make positive efforts to employ qualified individuals with disabilities; (3) representation of parents by non-attorneys in due process hearings; (4) state monitoring, technical assistance, and enforcement of the Part B program; (5) the allocation of funds under sections 611 and 619 of the IDEA to LEAs that are not serving any children with disabilities; and (6) any other requirements of the federal IDEA final regulations which are not currently addressed in state regulations.

Legislative review of these amendments is not required.

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 and 59-20-60

Notice of Drafting:

The State Board of Education proposes to promulgate new regulations dealing with the South Carolina Virtual School Program. Interested persons may submit comments to Dee Appleby, Director of the Office of eLearning, Division of Standards and Learning, South Carolina Department of Education, 3710 Landmark Square, Suite 301, Columbia, South Carolina 29204 or by e-mail to dappleby@ed.sc.gov. To be considered, comments must be received no later than 5:00 P.M., September 28, 2009, the close of the drafting comment period.

Synopsis:

The new regulations will govern the implementation of the South Carolina Virtual School Program to ensure consistent high quality education for the students of South Carolina by utilizing technology-delivered courses.

Legislative review of these regulations will be required.

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

Statutory Authority: 1976 Code Sections 44-1-165 et seq.

Notice of Drafting:

The Department of Health and Environmental Control proposes to promulgate a regulation to provide for an expedited process for permit application review. Interested persons may submit their views by writing to Mr. Carl W. Richardson, P.E., at 2600 Bull Street, Columbia, South Carolina, 29201. To be considered, written comments must be received no later than 5:00 p.m. on September 28, 2009, the close of the drafting comment period.

Synopsis:

S.C. Code Section 44-1-165 established an Expedited Review Program within the Department of Health and Environmental Control (Department) to provide an expedited process for permit application review. Participation in this program is voluntary and the program must be supported by expedited review fees promulgated in regulation pursuant to provisions of this section. The Department shall determine the project applications to review, and where determined appropriate by the Department, this process may be applied to any one or all of the permit programs administered by the Department.

The purpose of the proposed regulation is to implement the provisions required by statute. The regulation shall include, but is not limited to, definitions of “completeness” for applications submitted, consideration of joint federal-state permitting activities, standards for applications submitted that advance environmental protection, and expedited process application review fees.

This regulation will require legislative review.

**DEPARTMENT OF INSURANCE
CHAPTER 69**

Statutory Authority: 1976 Code Section 38-13-80

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-70, Annual Audited Financial Reporting Regulation. Interested persons should submit their comments in writing to Leslie M. Jones, Executive Assistant to the Director & Consulting Actuary, South Carolina Department of Insurance, 145 King Street, Suite 228, Charleston, South Carolina 29401. To be considered comments must be received no later than 5:00 p.m. on September 28, 2009, the close of the drafting comment period.

Synopsis:

The amendments to Regulation 69-70, Annual Audited Financial Reporting Regulation, will clarify the application of the regulation to certain captive insurance companies and will provide a definition of “captive insurer” as used in the regulation.

The proposed regulation will require legislative review.

12 DRAFTING NOTICES

DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110(2) and 38-43-106

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-50, Continuing Insurance Education. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on September 28, 2009, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-50, Continuing Insurance Education. The amendments to Regulation 69-50 will conform the regulation to recently enacted statutory requirements, ensure that the Department complies with uniformity standards of the National Association of Insurance Commissioners (NAIC) and will clarify producer education guidelines.

The proposed amendment of Regulation 69-50 will require legislative review.

DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110(2), 38-43-80(B), 38-47-40, 38-48-60, 38-45-50 and 38-49-20

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-33, Dates for Payment of Annual License Fees for Insurance Agents, Brokers, Adjusters, Agencies, and Motor Vehicle Damage Appraisers. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on September 28, 2009, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-33, Dates for Payment of Annual License Fees for Insurance Agents, Brokers, Adjusters, Agencies, and Motor Vehicle Damage Appraisers. The amendments to Regulation 69-33 will spread out License Renewal Dates over Odd/Even Years in conformity with recently enacted statutory requirements. The amendments will also allow the department to be uniform with the National Association of Insurance Commissioners (NAIC) standards. This will benefit South Carolina Producers to have their state of domicile in compliance with national standards which will speed up their licensing process in other states.

The proposed amendment of Regulation 69-33 will require legislative review.

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Sections 43-5-580 and 63-17-470 et seq.

Notice of Drafting:

The South Carolina Department of Social Services proposes amending regulations concerning Child Support Guidelines in order to maintain compliance with State and Federal law and regulations. Interested persons may submit comments to Mr. Stephen W. Yarborough, Child Support Enforcement Division, South Carolina Department of Social Services, Post Office Box 1469, Columbia, S.C. 29202. To be considered, comments must be received no later than 5:00 P.M. on September 28, 2009, the close of the drafting comment period.

Synopsis:

The Family Support Act of 1988 [P.L. 100-485] requires that at least every four years the Guidelines be reviewed and updated to reflect the latest economic data on child-rearing costs. The Department is also required by State law to review the Guidelines at least every four years to ensure that their application results in adequate support award amounts [South Carolina Code of Laws, 1976 as amended, Sections 43-5-580(b) and 63-17-470(d)].

14 PROPOSED REGULATIONS

Document No. 4085

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

61-62.1. Definitions and General Requirements

Preamble:

The United States Environmental Protection Agency (EPA) promulgated a final rule referred to as the Air Emissions Reporting Requirements (AERR) in the *Federal Register* on December 17, 2008 [73 FR 76540]. Pursuant to its authority under section 110 of Title I of the Clean Air Act (CAA), the EPA has long required SIPs to provide for the submission by states to the EPA of emission inventories containing information regarding the emissions of criteria pollutants and their precursors.

The purpose of the AERR is to harmonize reporting requirements under the NO_x SIP Call and the Clean Air Interstate Rule (CAIR) which requires inventories to be submitted 12 months after the beginning of each calendar year, and Consolidated Emissions Reporting Rule (CERR) which requires inventories to be submitted 17 months after the beginning of each calendar year. It also removes and simplifies some existing emissions reporting requirements which the EPA believes are not necessary or appropriate; allows states to better track changes in source emissions, shutdowns, and startups over time by using the 40 CFR 70 definition of major source for point source reporting (which defines sources based on potential to emit); deletes a requirement for states to report biogenic emissions; and offers states the option of reporting emissions for certain source categories.

Regulation 61-62.1, Definitions and General Requirements, currently specifies facilities emission reporting intervals based on actual emissions rather than potential to emit. The Department is revising this requirement in an effort to be consistent with Federal requirements under the AERR. Specifying a facility's reporting frequency based on potential to emit rather than actual emissions will reduce the uncertainty in which sources report emissions year to year which is common under current rules.

Regulation 61-62.1, Definitions and General Requirements, also currently specifies that major hazardous air pollutants (HAP) sources need only submit a summary sheet and calculations showing the source wide emissions of all HAPs emitted in excess of 200 pounds/year. The department proposes to delete this specification so that more detailed HAP data can be collected to insure that the National Emissions Inventory (NEI) maintained by the EPA contains the best available data. The Department is also specifying reporting from sources with greater than 10 tons per year (tpy) for a single HAP and 25 tpy for combined total HAP emissions. Sources would still only need to supply this information every three years. The Department is proposing to change the dates that facilities need to submit annual emissions data from March 31st to March 1st so that adequate time can be given to check its accuracy and completeness.

A Notice of Drafting was published in the *State Register* on April 24, 2009.

Section-by-Section Discussion of Proposed Revisions:

There will be no increased cost to the State or its political subdivisions as a result of these amendments.

SECTION CITATION/EXPLANATION OF CHANGE:

Regulation, 61-62.1, Section III – Emissions Inventory:

The entire section has been revised to incorporate the requirements of the AERR and to expand reporting requirements.

Regulation, 61-62.1 Section III (A):

Subsection is expanded to include a definition of point sources as defined by 40 CFR Part 70 and to give the Department flexibility on emissions reporting requirements which was previously included in Section III (B)(2)(i).

Regulation, 61-62.1 Section III (B):

Subsection is revised to delete redundant source specifications that are included in the HAP additions to Table 1.

Regulation, 61-62.1 Section III (C)(1):

The entire subsection is revised to incorporate the requirements of the AERR, delete obsolete or unnecessary text, require reporting requirements by facility's potential to emit as defined by 40 CFR Part 70, and include reporting requirements for Hazardous Air Pollutant (HAP) emissions.

Regulation, 61-62.1 Section III (C)(3):

Subsection is revised to change reporting times, clarify reporting format and schedules, delete requirements previously involved with HAP reporting, update Federal amendment date for 40 CFR Subpart A, and delete redundant or unnecessary text.

Notice of Staff Informational Forum and Public Comment:

Staff of the South Carolina Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on September 28, 2009, at 10:00 a.m. in the Wallace Room (3141) at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive comments from interested persons on the proposed amendments to Regulation 61-62.1, Definitions and General Requirements.

Interested persons are also provided an opportunity to submit written comments to Andrew O. Hollis 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 September 28, 2009. Comments received at the forum or during the write-in public comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Andrew O. Hollis at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4196.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to comment on the proposed amendments to Regulation 61-62.1, Definitions and General Requirements, at a public hearing to be conducted by the Board of the South Carolina Department of Health and Environmental Control at its regularly-scheduled meeting on November 12, 2009. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the South Carolina 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 twenty-four 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.

16 PROPOSED REGULATIONS

Preliminary Fiscal Impact Statement:

There will be no increased cost to the State or its political subdivisions as a result of these amendments.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: The proposed amendment will amend Regulation 61-62.1, Definitions and General Requirements, to make the necessary revisions to be consistent with the new Federal emissions reporting requirements. In addition, the Department is proposing to amend state level reporting requirements to facilitate the collection of more detailed process level emissions inventory data (to include hazardous air pollutants (HAP) data) to insure that the National Emissions Inventory (NEI) maintained by the United States Environmental Protection Agency (EPA) contains the best available data.

Legal Authority: The legal authority for 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 General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing the regulated community with copies of the regulation.

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

The EPA promulgated a final rule referred to as the Air Emissions Reporting Requirements (AERR) in the *Federal Register* on December 17, 2008 [73 FR 76540]. Pursuant to its authority under section 110 of Title I of the Clean Air Act (CAA), the EPA has long required State Implementation Plans (SIPs) to provide for the submission by states to the EPA of emission inventories containing information regarding the emissions of criteria pollutants and their precursors.

The purpose of the AERR is to harmonize reporting requirements under the NO_x SIP Call and Clean Air Interstate Rule (CAIR) which requires inventories to be submitted 12 months after the beginning of each calendar year, and Consolidated Emissions Reporting Rule (CERR), which requires inventories to be submitted 17 months after the beginning of each calendar year. The AERR also removes and simplifies some existing emissions reporting requirements, which the EPA believes are not necessary or appropriate; allows states to better track changes in source emissions, shutdowns, and startups over time by using the 40 CFR 70 definition of major source for point source reporting (which defines sources based on potential to emit); deletes a requirement for states to report biogenic emissions; and offers states the option of reporting emissions for certain source categories.

Regulation 61-62.1, Definitions and General Requirements, currently specifies facilities emission reporting intervals based on actual emissions rather than potential to emit. The Department is revising this requirement in an effort to be consistent with Federal requirements under the AERR. Specifying a facility's reporting frequency based on potential to emit rather than actual emissions will reduce the uncertainty in which sources report emissions year to year which is common under current rules. Approximately 15 of the 282 current Title V sources will be required to increase their emissions inventory reporting from a three year reporting frequency to an annual frequency based on this change, and approximately 50 facilities will go from one time reporting to a three year reporting frequency. Many facilities can avoid annual reporting; however, by taking limits in their federally enforceable permits.

Regulation 61-62.1, Definitions and General Requirements, also currently specifies that major HAP sources need only submit a summary sheet and calculations showing the source wide emissions of all HAPs emitted in excess of 200 pounds/year. The Department proposes to delete this specification so that more detailed HAP data can be collected to insure that NEI maintained by the EPA contains the best available data. The Department is also requiring that sources with greater than 10 tons per year (tpy) for a single HAP and 25 tpy for combined total HAP emissions report their emissions information every three years. In addition, the Department is proposing to change the dates that facilities need to submit annual emissions data from March 31st to March 1st. This change will provide Department staff with more time to adequately check the inventory's accuracy and completeness.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions resulting from this proposed revision. The standards to be adopted are already effective and applicable to the regulated community as a matter of Federal law. This action will reduce the number of times the Department will need to submit emissions inventory data to the EPA by harmonizing the 17 month schedule under the CERR with the 12 month schedule under CAIR. This reduced number of reporting times will result in a more efficient use of staff time and will allow staff more time to work on other emissions inventories like mobile sources.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions. The EPA has provided the estimated costs and benefits for these standards in the *Federal Register* notices that are cited within this document.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

By implementing this rule, the Department will be able to more effectively track emissions of HAPs from large facilities in South Carolina. The Department will thereby improve the State's emission inventories to more effectively protect public health.

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

There will be no detrimental effect on the environment and/or public health associated with these revisions.

Statement of Rationale:

The bulk of these revisions are being made to comply with the Federal mandate. The additional proposed revisions will facilitate the collection of more detailed process level emissions inventory data as well as provide staff with more time to ensure the data's accuracy and completeness. These revisions will change the reporting requirements for some facilities that are required to obtain a Title V permit issued by the Department. No new scientific studies or information precipitated the development of the proposed revisions.

Text:

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

18 PROPOSED REGULATIONS

Document No. 4088
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10, 38-3-110, 38-57-40, 38-63-10,
38-65-10 and 38-69-10

69-39. Annuity and Deposit Fund Disclosure Regulation

Preamble:

The South Carolina Department of Insurance proposes to amend Regulation 69-39, Annuity and Deposit Fund Disclosure Regulation, by striking and replacing the current text in its entirety. Proposed amendments to Regulation 69-39, Annuity and Deposit Fund Disclosure Regulation, will be based upon the current NAIC Annuity and Deposit Fund Disclosure Model Regulation.

Notice of Drafting for the proposed amendments was published in the *State Register* on October 24, 2008.

Section-by-Section Discussion

The proposed regulation shall include the following sections:

SECTION CITATION:	SECTION TITLE	EXPLANATION
69-39, Section 1	Purpose	This section sets forth the purpose of the regulation. The regulation is designed to establish standards for the disclosure of certain minimum information about annuity contracts. The goal is to protect consumers and foster consumer education.
69-39, Section 2	Scope	This section provides that it applies to all group and individual annuity contracts and certificates with certain enumerated exceptions.
69-39, Section 3	Definitions	This section provides the definition of terms used in the regulation such as "Buyer's Guide," "Charitable gift annuity," "Contract owner," "Determinable elements," and others.
69-39, Section 4	Standards for the Disclosure Document and Buyer's Guide	This section sets forth the standards regarding provision of the disclosure statement and Buyer's Guide to a consumer and sets forth the minimum information that must be included in the disclosure document.

69-39, Section 5	Report to Contract Owners	This section requires that an insurer must provide, at least annually, a report on the status of the contract for annuities in the payout period with changes in non-guaranteed elements and for the accumulation period of a deferred annuity.
69-39, Section 6	Penalties	This section provides that a violation of this regulation constitutes an unfair trade practice under Chapter 57 of Title 38 of the South Carolina Code of Laws.
69-39, Section 7	Severability	This section provides that if any section of the regulation is held invalid by a court, the remainder of the regulation is not affected.
69-39, Section 8	Effective Date	This section provides the effective date of the regulation which is to be six months after final publication in the <i>State Register</i> . The regulation will apply to contracts sold on or after the effective date.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the S. C. Code, as amended, such hearing will be held on October 21, 2009, at 10:00 A.M. in the Administrative Law Court, Columbia, South Carolina. Persons desiring to make oral comment at the hearing are asked to provide written copies of their presentation for the record. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Written comments, requests for the text of the proposed regulation or any other information, and any requests for a public hearing, should be submitted to Rachel Harper, South Carolina Department of Insurance, P. O. Box 100105, Columbia, S.C. 29202-2105, on or before 5:00PM on September 28, 2009. Copies of the text of the proposed regulation for public notice and comment are available at www.doi.sc.gov.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Annuity Disclosure Regulation.

Purpose: The proposed regulation will provide standards to insurers and producers regarding practices when marketing annuities.

Legal Authority: 1976 S.C. Code Sections 1-23-10, 38-3-110, 38-57-40, 38-63-10, 38-65-10 and 38-69-10.

20 PROPOSED REGULATIONS

Plan for Implementation: The proposed regulation will be implemented by the S.C. Department of Insurance.

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

The proposed regulation is needed to provide direction to insurers and producers regarding the sales, solicitation or negotiation of annuity products.

DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. The proposed regulation will benefit our state by setting forth the standards to protect purchasers of annuities from misleading and improper practices in the marketing or sales of annuities.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation will have no impact on the environment or public health. The anticipated public benefits of this proposed regulation include the provision of additional consumer safeguards when a consumer is considering the purchase of an annuity product.

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

Promulgation of this regulation is crucial to providing standards to be followed by insurers and producers marketing annuities.

Statement of Rationale:

The regulation is needed to set forth the standards to be followed by insurers and producers when involved in the sales, solicitation or marketing of annuities. It provides for certain consumer safeguards and disclosures that must be followed in connection with the solicitation, sale or purchase of an annuity product. This regulation is based upon the NAIC Model Annuity Disclosure Regulation.

Text:

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

Document No. 4089
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123
 Statutory Authority: 1976 Code Section 50-15-65

123-151. Regulations for Species or Subspecies of Non-game Wildlife

Preamble:

Act 179 (S452) was passed by the SC General Assembly and became law in February, 2008. This act established new alligator management options and specifies that the SC Department of Natural Resources will modify existing programs and create new programs for the management and harvest of alligators. Because there was not sufficient time to promulgate new regulations it was necessary to file emergency regulations that replaced the pre-existing 123-151 in order to implement the 2008 public hunt for alligators as intended by the 2008 SC General Assembly. Several modifications were made in the 2008 emergency regulations which allowed the filing of emergency regulations to implement the 2009 public hunt as intended. The notice of drafting for these regulations was published in the May 22, 2009 State Register. These regulations will permanently replace 123-151 and will set the public alligator harvest program and other aspects of the depredation and nuisance alligator programs for years to come. The following is a section by section summary of the proposed regulation:

Section-by-Section Discussion

- A. This section specifies under what conditions alligators may be harvested and establishes methods of tagging.
- B. This section establishes the Depredation Program and specifies how the alligators and products from such may be handled.
- C. This section establishes the Private Lands Program and sets the criteria for harvest of alligators under such.
- D. This section establishes the Alligator Hunting Season and sets the criteria for harvest of alligators under such.
- E. This section sets the criteria under which alligator meat may be sold.
- F. This section sets the criteria under which alligator hides and other parts may be sold, bartered or transferred.
- G. This section sets the criteria under which finished alligator products may be sold.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on October 15, 2009, at 10:00 am in room 335, third floor, Rembert C. Dennis Building. Written comments may be directed to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202, no later than 5:00p.m., September 28, 2009.

Preliminary Fiscal Impact Statement:

This amendment of Regulations 123-151 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. Further it will provide for the continued removal of alligators in nuisance and depredations situations, where needed.

22 PROPOSED REGULATIONS

Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Sections 1-23-115(C) (1) through (3) and (9) through (11).

DESCRIPTION OF THE REGULATION:

Purpose: These regulations amend Chapter 123-151 in order to set seasons, bag limits and methods of hunting and taking of alligators on public and private lands. They also set the programs by which alligators are taken in depredation situations.

Legal Authority: Act 179 (S452) was passed by the SC General Assembly and became law in February, 2008. This act established new alligator management options and specifies that the SC Department of Natural Resources will modify existing programs and create new programs for the management and harvest of alligators. These regulations will permanently replace 123-151 and will set the public alligator harvest program and other aspects of the depredation and nuisance alligator programs for years to come.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations in the annual Rules and Regulations Brochure. The public will be notified through this publication and through news releases and other Department media outlets and publications.

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

This regulation meets the expectations of the new law and further meets the needs of the public and does not diminish the future of this valuable natural resource. This regulation has been modeled after regulations relating to alligator harvest in other southeastern states. It will allow the public to participate in the harvest of alligators thus accomplishing the conservations needs of the human and wildlife populations.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. Any costs to monitor the alligator resource and to plan for future alligator hunting seasons will be funded through revenue generated from hunters participating in the hunting season. This amendment of Regulations 123-151 will result in increased public hunting opportunities that should generate additional State revenue through license sales and participation fees as prescribed in the new law. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

UNCERTAINTIES OF ESTIMATES:

Staff does not anticipate any increased costs with the promulgation of this regulation. Accordingly, no costs estimates and the uncertainties associated with them are provided.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health; however, it may contribute to public safety by removing large alligators from areas where outdoor recreation occurs. Environmental impacts will be positive since the proposed regulation will result in additional opportunity for outdoor recreation for South Carolina's sportsmen and increased awareness and commitment for natural resources.

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

No detrimental impact on public health or the environment will occur if this proposed regulation is not implemented. Failure to implement this regulation will prevent positive benefits to the public.

Statement of Rationale:

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting programs. Future alligator seasons and methods will be based upon public need and scientific data related to alligator populations and problems.

Text:

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

24 EMERGENCY REGULATIONS

Filed: August 14, 2009 9:11am

Document No. 4086

DEPARTMENT OF NATURAL RESOURCES CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

123-40. Wildlife Management Area Regulations

Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Numbers 123-40. These regulations set open and closed seasons, bag limits and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Wildlife Management Areas. Because the hunting seasons on many of these areas begin August 15 it is necessary to file these regulations as emergency.

Text:

123-40. Wildlife Management Area Regulations.

(G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used buckshot only is permitted. On either-sex deer hunts with dogs, all deer must be checked in by one hour after legal sunset. On all still gun and muzzleloader either-sex hunts for all units, all does must be tagged with an individual antlerless deer tag except when harvested on county-wide either-sex days. Individual antlerless deer tags are valid on days not designated as either-sex after Sept. 15 for still hunting only. Tibwin Special Use Area (in Wambaw) is closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older.

Total of 8 deer for all gun and muzzleloader hunts on the Francis Marion.

Hellhole WMA

Deer

Archery

Aug. 15 - Sept. 30

2 deer per day, either-sex, Sept. 15 - 30.
Hogs no limit.

Still Gun Hunts

Oct. 1 - Jan. 1
except during scheduled
dog drive hunts.

2 deer per day, either-sex,
hogs no limit. Doe tags must be
used except on county either-sex
days.

Dog Hunts

(Shotguns only, no still
gun hunting)

Dec. 5

Dec. 11

2 deer per day, buck only,
hogs no limit.
2 deer per day, either sex,
hogs no limit.

Youth only deer hunt with dogs	Nov. 21	2 deer per day, either-sex, hogs no limit.
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Requirements for youth same as statewide youth deer hunt day.

On the either-sex deer hunt with dogs (except youth only hunts) all deer must be checked in at Hellhole Check Station.

Waterhorn WMA

Deer

Archery	Sept. 24 - Oct. 15	2 deer per day, either-sex, hogs no limit.
Muzzleloader	Oct. 26 - Nov. 7	2 deer per day, either-sex, hogs no limit. Doe tags must be used except on county either- sex days.
Still Gun Hunts	Aug. 21 - 22 Sept. 4 - 5, 11-12 Nov. 13 - 14 Dec. 7 - 12 Dec. 26 - Jan.1	2 deer per day, buck only, hogs no limit. 2 deer per day, either-sex, hogs no limit. Doe tags must be used except on county either- sex days.
Hog Hunts with dogs	Feb. 6, 20 Mar. 13	No limit.

No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party (buck shot only). Pistols allowed. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hog hunters must sign in at designated locations and complete a data card upon entering and leaving Waterhorn WMA. Hunting allowed from legal sunrise to legal sunset.

Wambaw WMA

Deer

Seewee Special Use Area Archery (no dogs)	Sept. 1 - Jan. 1	2 deer per day, buck only, except either-sex Sept. 15 – Jan. 1.
Still Gun Hunts	Aug. 15 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, except either-sex Sept. 15 – Jan. 1. Hogs no limit. Doe tags must be used except on county either-sex days.
Dog Hunts (Shotguns only)	Sept. 25 Nov. 18 - 19, Dec. 12, 26, 28	2 deer per day, buck only, hogs no limit.

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	Nov. 7	2 deer per day, either-sex, hogs no limit.
Youth only deer hunt with dogs	Oct. 24	2 deer per day, either-sex, hogs no limit.

Requirements for youth same as statewide youth deer hunt day.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Awendaw check station on Hwy 17 or Honey Hill Lookout Tower.

Still gun hunts only East of Hwy 17. Rifles allowed.

Hog Hunts	Feb. 13, 27, Mar. 6	No limit.
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No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party(buck shot only). Pistols allowed. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hog hunters must sign in at designated locations and complete a data card upon entering and leaving Wambaw WMA. Hunting allowed from legal sunrise to legal sunset.

Northampton WMA

Deer

Still Gun Hunts	Aug. 15 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, except either-sex Sept. 15 - Jan. 1. Hogs no limit. Doe tags must be used except on county either-ex days.
Dog Hunts (Shotguns only)	Sept. 26 Oct. 7 - 8, Nov. 27, Dec. 29 Oct. 17	2 deer per day, buck only, hogs no limit. 2 deer per day, either-sex, hogs no limit.
Youth only deer hunt with dogs	Jan. 2	2 deer per day, either-sex, hogs no limit.

Requirements for youth same as statewide youth deer hunt day.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at P&C Grocery or Anglers in Jamestown.

Santee WMA

Deer

Still Gun Hunts	Aug. 15 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, except either-sex Sept. 15 - Jan. 1. Hogs no limit. Doe tags must be used except on county either-sex days.
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Dog Drive Hunts (Shotguns only)	Aug. 28 - 29 Oct. 21 - 22, Dec. 4	2 deer per day, buck only, hogs no limit.
	Sept. 19	2 deer per day, either-sex, hogs no limit.
Youth only deer hunt with dogs	Oct. 3	2 deer per day, either-sex, hogs no limit.

Requirements for youth same as statewide youth deer hunt day.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Bonneau Ferry entrance or M & B Alvin Community Mart.

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because some hunts begin on August 15, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

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

Filed: August 14, 2009 4:00pm

Document No. 4087
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-15-65

123-151. Regulations for Species or Subspecies of Non-game Wildlife

Emergency Situation:

Act 179 (S452) was passed by the SC General Assembly and became law in February, 2008. This act established new alligator management options and specifies that the SC Department of Natural Resources will modify existing programs and create new programs for the management and harvest of alligators. Because there was not sufficient time to promulgate new regulations it was necessary to file emergency regulations that replaced 123-151 with these emergency regulations thus fulfilling the intent of the new law and allowing for the Public Alligator Hunting in 2008. Several modifications have been made to the 2008 emergency regulations that allow new emergency regulations for the 2009 hunt.

Text:

123-151. Regulations for Species or Subspecies of Non-game Wildlife.

28 EMERGENCY REGULATIONS

A. Alligator Harvest

1. The size and number of alligators to be taken will be specified by the Department on permits provided with harvest tags. A permit holder may only take and/or possess alligators identified by the Department and only in the manner specified by the Department.

2. All who take or attempt to take an alligator must have a copy of the harvest permit along with an unused harvest tag with them while afield.

3. Once an alligator is killed and before it is transported, a harvest tag must be attached and locked within six inches of the tip of the tail. In the event that an alligator harvest tag is defective and is not usable for the purpose intended, or becomes detached from the alligator hide, the Department must be notified immediately. The Department will be responsible for the replacement of defective, but not lost, tags. The alteration of harvest tags is strictly prohibited.

4. Alligator meat may be used by the harvester but cannot be bought, sold or bartered except as provided in this regulation. All packages of meat not to be sold must have a tag with the name of the harvester and the harvest tag number attached.

5. Before shipping or transporting outside of the USA, carcasses or hides must have CITES tags attached. Anyone desiring to ship or transport such items from the country must contact select Department offices for CITES validation and tagging.

6. Any alligator carcass, hide or part that is not tagged or marked as required in this regulation is declared contraband and must be confiscated.

B. Depredation Program

1. Depredation permits for alligator removal will be issued to property owners or control agents. There is no fee for participation in this program.

2. Qualifications and liability of Control Agents:

a. Control agents must possess the experience and ability to handle alligators.

b. Control agents must supply all equipment necessary to take alligators.

c. Control agents assume personal liability for their health, safety and welfare and that of their assistants.

d. Control agents are not employees of the Department, they are independent contractors.

e. Applications for selection as control agents will be reviewed by the Department. The number of appointed control agents will be based upon the need as determined by the Department.

3. Operation of Department designated alligator control agents:

a. Alligators may be skinned only at designated sites and in accordance with specific instructions provided by the Department.

b. The meat of alligators may be used by the control agents or his/her immediate family and may also be given to others but must not be bought, sold or transferred except as provided in this regulation. All packages of meat not be sold, transferred or bartered must have a tag attached that includes the name of the person who harvested the alligator and the harvest tag number.

c. Each control agent may be assisted by not more than two assistant control agents approved by the Department, provided that no such assistant shall operate or conduct any alligator trapping or transportation activity except under supervision of the control agent.

d. Alligator harvest tags issued to control agents are the property of the Department and shall remain the property of the Department.

e. Designation as an alligator control agent is discretionary with the Department and such designation may be revoked at any time.

C. Private Lands Alligator Program

1. Alligators may be taken from lands that are in the Private Lands Alligator Program. The season for taking alligators under this program is from September 1 until October 15. The Department will establish a quota and issue tags for each specific application. Alligators taken under this program must be at least 4 feet in length.

2. Applications for participating in the Private Lands Alligator Program must be received by the Department not later than August 1st of that year, and the applicant must report all harvested alligators and harvest information to the Department not later than the following December 1st.

3. If the application is approved by the Department for participation in the Private Lands Alligator Program and a permit is issued, alligators may be taken only from that area and only by a licensed hunter. In order to participate in the Private Lands Alligator Program, an alligator control agent as defined in Section B must also be a licensed hunter. Participants in the Private Lands Alligator Program must maintain accurate records for inspection by Department personnel and the records must be made available for immediate inspection at any and all reasonable hours at the request of the Department.

4. All areas identified in the Private Lands Alligator Program and facilities used for processing alligators must be open to Department personnel for inspection to determine compliance with the program and laws and regulations protecting alligators and to allow collection of biological information.

5. During the designated private lands season, alligators may only be taken by firearms, hand-held snares, hand-held harpoons, archery equipment, crossbows, snatch hooks and as otherwise permitted by the Department. If devices other than firearms are used, a line must be securely attached to the hook, arrow or head of the device in such a manner to prevent separation from the hook, arrow or head until the carcass is retrieved. The other end of the line must be held by the hunter or be attached to a stationary or floating object capable of maintaining line above water when an alligator is attached. Rimfire firearms and shotguns are prohibited for taking alligators except that these firearms can be used to dispatch an alligator secured by a line. No alligator may be taken by use of baited hooks or by pole hunting. Pole hunting is defined as the act of taking an alligator from a den with a hook or snagging device of any type secured to the end of a pole and includes any device used to induce an alligator to move from a den prior to taking. All alligators taken under this program must be killed prior to transport off of the property named on the permit.

6. No person may use alligator harvest tags issued for privately-owned habitat on publicly-owned property.

7. A Department-supplied alligator harvest report form must be updated by the applicant or the person taking alligators on the property within 24 hours of the taking of each alligator. Alligator hunters, while on property designated under the Private Lands Alligator Program, may only possess tags for that property. Completed harvest forms must be returned to the Department by December 1st of each year. A participant who does not report is not eligible to participate in the program the following year.

8. Alligator hides, parts or products may be retained and sold only in accordance with this regulation.

D. Alligator Hunting Season

1. The Department may issue a prescribed number of Alligator Hunting Season permits for the harvest of alligators. Those applicants randomly selected shall be issued instructions along with harvest tag(s). Alligators may be taken pursuant to permits from public and private areas where the person has legal access for the taking of alligators. Alligators taken under this program must be at least 4 feet in length. The season for hunting alligators under this program is from 12:00 noon on the 2nd Saturday in September until 12:00 noon on the 2nd Saturday in October and is open in Game Zones 3, 4, 5 & 6. These harvest permits cannot be used on property approved under the Private Lands Alligator Program. The Department may close, extend, delay or reopen the season if biological needs warrant.

2. During the designated season, alligators may only be taken by hand-held snares, hand-help harpoons, archery equipment, crossbows, snatch hooks and as otherwise permitted by the Department. Any device may only be used when a line is securely attached to the hook or head of the device in such a manner as to prevent separation from the hook, arrow or head until the carcass is retrieved. The other end of the line must be held by the hunter or attached to a stationary or floating object capable of maintaining line above water when an alligator is attached. Only a handgun, a bangstick or sharp instrument used to sever the spine may be used for dispatch and only if a restraining line is attached to the alligator. A hand-held snare must be used to hold the alligator boatside or on land before it can be dispatched. Firearms may not be used to take free-swimming or basking alligators. The possession of a rifle or shotgun while taking or attempting to take alligators under this program is prohibited. All alligators taken under this program must be killed prior to transport by boat or vehicle. No alligator may be taken by use of baited hooks or by pole hunting. Pole hunting is defined as the act of taking an alligator from a den with a hook or snagging device of any type secured to the end of a pole and includes any devices used to induce an alligator to move from a den prior to taking.

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3. A Department-supplied alligator harvest report form must be updated by the person taking alligators within twenty-four (24) hours of taking each alligator and prior to transporting the alligator carcass to a processing facility. A copy of the alligator harvest report must accompany the alligator hide. Completed harvest forms must be returned to the Department by December 1st of each year.

4. A person who does not report is not eligible to participate in the program the following year.

5. Alligator meat may be retained by the harvester but cannot be bartered or sold. Alligator hides may be retained and sold only in accordance with this regulation.

E. Sale of Alligator Meat

1. The sale or barter of alligator meat taken under the alligator hunting season program is prohibited.

2. Meat taken from alligators harvested under the authority of depredation tags and the private lands program tags may be sold only under the following conditions:

a. Each package must be labeled to indicate the state, the number of pounds of meat enclosed, the date of packaging, the name of harvester, the processor, the State Food Inspection Department's inspection number, and the tag number corresponding to the alligator hide from which the meat was taken.

b. All cartons of alligator meat imported from other states shall bear an official marking from that state's wildlife agency.

c. Persons handling alligator meat for human consumption must comply with the sanitation requirements of all applicable federal, state and local authorities.

d. Those who harvest alligators must maintain accurate records of all alligator meat sales on standard forms supplied by the Department and such records shall be open to inspection by Department personnel.

3. No person may bring any alligator meat into this State, or possess alligator meat unless authorized by this regulation.

4. Alligator meat transported into the State must bear evidence of having been legally taken.

5. Restaurants, canneries, nonfood meat processors and alligator meat wholesalers shall retain all alligator meat purchased in the original packages until the meat is prepared for consumption or processing. Such businesses and/or individual shall detach the original label with the accompanying data from each package when all meat from that carton has been prepared or processed and retain that label for the period of at least six months from the date of sale indicated on the label.

F. Sale, Barter or Transfer of Alligator Hides and Other Parts

1. Alligator skulls and other parts not discarded must be permanently marked with the alligator harvest tag number under which it was taken. Possession of any part without the tag number is prohibited. Parts that are found may be retained, sold bartered or transferred but the finder must contact the Department to obtain a tag number to permanently tag or mark the part. The parts may be sold, bartered or transferred but records must be kept indicating to whom the parts were sold, bartered or transferred.

2. Hides or alligators taken with Department issued permits may be sold but must be properly tagged and reported as provided in this regulation. Alligator hides and parts transported into this state for sale or processing must bear evidence of having been legally taken.

3. No person shall accept or possess an untagged alligator hide or unmarked or untagged alligator part for any purpose.

G. Sale of Finished Alligator Products

1. Products made from crocodilians may be sold in the State in accordance with the following:

a. Products made from the American alligator must be visibly labeled American alligator.

b. Products made from Caiman must be visibly labeled Caiman.

c. Products made from other crocodilians must be visibly labeled Crocodile.

Statement of Need and Reasonableness:

Action of the 2008 SC General Assembly and changes to existing laws require that existing regulations be replaced. Because the alligator harvest under two of the programs established in the new law begin in September, it is necessary to file emergency regulations that will take effect immediately.

Fiscal Impact Statement:

This amendment of Regulation 123-151 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.

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Document No. 4079
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-55-10 et seq.

61-58. State Primary Drinking Water Regulations

Synopsis:

The Department has amended R.61-58 to adopt federal requirements pursuant to 40 CFR 141 and 142. These changes meet federal requirements of the Lead and Copper: Short Term Regulatory Revisions and Clarifications in the final rule published in the Federal Register on October 10, 2008, at 40 CFR Parts 141 and 142 and were necessary to maintain consistency with the National Primary Drinking Water Regulations. This rule makes minor changes in sampling procedures and lead service line replacement requirements and enhances public education requirements under the Lead and Copper Rule.

Legislative review of these regulations is not required, nor is a preliminary fiscal impact statement or a statement of rationale required.

A Notice of Drafting for this amendment was published in the State Register on September 26, 2008.

Discussion of Revisions:

General Requirements

R.61-58.11.B(1)(c)(v)

Added new paragraph changing the compliance requirements.

R.61-58.11.B(5)

Revised to require that consumers are notified of sampling results.

Applicability of Corrosion Control Treatment Steps to Small, Medium Size and Large Water Systems

R.61-58.11.C(2)(c)(iii)

Revised to require Department review and approval of source changes.

R.61-58.11.C(5)(a)

Revised to clarify monitoring period.

R.61-58.11.C(5)(b)

Revised to clarify monitoring period.

Source Water Treatment Requirements

R.61-58.11.E(1)(a)

Revised to specify when submittal is due.

Lead Service Line Replacement Requirements

R.61-58.11.F(2)

Renumbered to R.61-58.11.F(2)(a) and revised to clarify monitoring period.

R.61-58.11.F(2)(b)

Added to specify additional requirements for lead service line replacement.

Public Education and Supplemental Monitoring Requirements

R.61-58.11.G

Revised entire section pertaining to public education language and supplemental monitoring.

Monitoring Requirements for Lead and Copper in Tap Water

R.61-58.11.H(2)(e)

Revised to correct reference.

R.61-58.11.H(3)

Revised to clarify monitoring requirements.

R.61-58.11.H(4)(d)(i)

Revised to clarify monitoring requirements.

R.61-58.11.H(4)(d)(ii)

Revised to clarify monitoring requirements.

R.61-58.11.H(4)(d)(iii)

Revised to clarify sample collection requirements.

R.61-58.11.H(4)(d)(iv)(A)

Added to allow for different monitoring periods.

R.61-58.11.H(4)(d)(iv)(B)

Added to clarify monitoring requirements.

R.61-58.11.H(4)(d)(vi)(B) & R.61-58.11.H(4)(d)(vi)(B)(1)

Revised to clarify monitoring requirements.

R.61-58.11.H(4)(d)(vii)

Revised to include Department notification requirements.

R.61-58.11.H(7)(d)(i)

Revised to clarify monitoring requirements.

R.61-58.11.H(7)(d)(iii)

Revised to include Department notification requirements.

Monitoring Requirements for Water Quality Parameters

R.61-58.11.I(4)

Revised to clarify sample collection period.

R.61-58.11.I(5)(b)(i)

Revised to clarify monitoring requirements.

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R.61-58.11.I(5)(b)(ii)

Revised to clarify monitoring requirements.

Monitoring Requirements for Lead and Copper in Source Water

R.61-58.11.J(2)

Revised to clarify monitoring requirements.

R.61-58.11.J(4)(a)(i)

Revised to clarify monitoring requirements.

R.61-58.11.J(4)(a)(ii)

Revised to clarify monitoring requirements.

R.61-58.11.J(5)(a)

Revised introductory paragraph to clarify monitoring requirements.

R.61-58.11.J(5)(b)

Revised introductory paragraph to clarify monitoring requirements.

Reporting Requirements

R.61-58.11.L(1)(a)

Revised introductory paragraph to clarify monitoring period.

R.61-58.11.L(1)(b)

Revised introductory paragraph to correct reference.

R.61-58.11.L(1)(c)

Revised to clarify Department notification and approval requirement.

R.61-58.11.L(5)(a)

Revised to clarify reporting requirements to the Department.

R.61-58.11.L(5)(b)

Revised introductory paragraph to clarify reporting requirements to the Department.

R.61-58.11.L(5)(b)(ii)

Revised to clarify reporting requirements to the Department.

R.61-58.11.L(6)(a)

Revised to clarify reporting requirements to the Department.

R.61-58.11.L(6)(a)(i)

Revised to correct reference.

R.61-58.11.L(6)(c)

Added to clarify reporting requirements to the Department.

Required Additional Health Information

R.61-58.12.D(4)

Revised to include specific lead health effects language in consumer confidence reports.

Instructions:

Amend R.61-58 pursuant to each individual instruction provided below with the text of the amendments.

Text:**Add paragraph R.61-58.11.B(1)(c)(v) to read:**

(v) For a water system that has been allowed by the Department to collect fewer than five samples in accordance with Section H(3) the sample result with the highest concentration is considered the 90th percentile value.

Revise paragraph R.61-58.11.B(5) to read:

(5) Public Education Requirements – Pursuant to Section G, all water systems must provide a consumer notice of lead tap water monitoring results to persons served at the sites (taps) that are tested. Any system exceeding the lead action level shall implement the public education requirements.

Revise paragraph R.61-58.11.C(2)(c)(iii) to read:

(iii) Any water system deemed to have optimized corrosion control pursuant to this paragraph shall notify the Department in writing pursuant to Section L(1)(c) below, of any upcoming long term change in treatment or the addition of a new source as described in that section. The Department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Department may require any such system to conduct additional monitoring or to take other action the Department deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system.

Revise paragraph R.61-58.11.C(5)(a) to read:

(a) Step 1: The system shall conduct initial tap sampling (Section H(4)(a) and Section I(2) below) until the system either exceeds the lead or copper action level or becomes eligible for reduced monitoring under Section (H)(4)(d) below. A system exceeding the lead or copper action level shall recommend optimal corrosion control treatment (Section D(1) below) within six (6) months after the end of the monitoring period during which it exceeds one of the action levels.

Revise paragraph R.61-58.11.C(5)(b) to read:

(b) Step 2: Within twelve (12) months after the end of the monitoring period during which a system exceeds the lead or copper action level, the Department may require the system to perform corrosion control studies (Section D(2) below). If the Department does not require the system to perform such studies, the Department shall specify optimal corrosion control treatment (Section D(4)) within the following time frames:

(i) For medium-size systems, within eighteen (18) months after the end of the monitoring period during which such system exceeds the lead or copper action level; and,

(ii) For small systems, within twenty-four (24) months after the end of the monitoring period during which such system exceeds the lead or copper action level.

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Revise paragraph R.61-58.11.E(1)(a) to read:

(a) Step 1: A system exceeding the lead or copper action level shall complete lead and copper source water monitoring (Section J(2) below) and make a treatment recommendation to the Department (paragraph (2)(a) of this section) no later than one hundred eighty (180) days after the end of the monitoring period during which the lead or copper action level was exceeded.

Redesignate paragraph R.61-58.11.F(2) as R.61-58.11.F(2)(a) to read:

(2)(a) A water system shall replace annually at least seven (7) percent of the initial number of lead service lines in its distribution system. The initial number of lead service lines is the number of lead lines in place at the time the replacement program begins. The system shall identify the initial number of lead service lines in its distribution system, including an identification of the portions(s) owned by the system, based on a materials evaluation, including the evaluation required under Section H(1) below and relevant legal authorities (e.g. contracts, local ordinances) regarding the portion owned by the system. The first year of lead service line replacement shall begin on the first day following the end of the monitoring period in which the action level was exceeded under paragraph (1) of this section. If monitoring is required annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs. If the Department has established an alternate monitoring period, then the end of the monitoring period will be the last day of that period.

Add paragraph R.61-58.11.F(2)(b) to read:

(b) Any water system resuming a lead service line replacement program after the cessation of its lead service line replacement program as allowed by paragraph (7) of this section shall update its inventory of lead service lines to include those sites that were previously determined not to require replacement through the sampling provision under paragraph (4) of this section. The system will then divide the updated number of remaining lead service lines by the number of remaining years in the program to determine the number of lines that must be replaced per year (seven (7) percent lead service line replacement is based on a fifteen (15) year replacement program, so, for example, systems resuming lead service line replacement after previously conducting two years of replacement would divide the updated inventory by thirteen (13)). For those systems that have completed a fifteen (15) year lead service line replacement program, the Department will determine a schedule for replacing or retesting lines that were previously tested out under the replacement program when the system re-exceeded the action level.

Replace section R.61-58.11.G to read:

G. Public Education and Supplemental Monitoring Requirements.

All water systems must deliver a consumer notice of lead tap water monitoring results to persons served by the water system at sites that are tested, as specified in paragraph (d) of this section. A water system that exceeds the lead action level based on tap water samples collected in accordance with Section H shall deliver the public education materials contained in paragraph (a) of this section in accordance with the requirements in paragraph (b) of this section. Water systems that exceed the lead action level must sample the tap water of any customer who requests it in accordance with paragraph (c) of this section.

(1) Content of written public education materials.

(a) Community water systems and Non-transient non-community water systems. Water systems must include the following elements in printed material (e.g., brochures and pamphlets) in the same order as listed below. In addition, language in paragraphs (1)(a)(i) through (ii) and (1)(a)(vi) of this section must be included in the materials, exactly as written, except for the brackets in these paragraphs for which the water system must include system-specific information. Any additional information presented by a water system must be

consistent with the information below and be in plain language that can be understood by the general public. Water systems must submit all written public education materials to the Department prior to delivery. The Department may require the system to obtain approval of the content of written public materials prior to delivery.

(i) **IMPORTANT INFORMATION ABOUT LEAD IN YOUR DRINKING WATER.** [INSERT NAME OF WATER SYSTEM] found elevated levels of lead in drinking water in some homes/buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information closely to see what you can do to reduce lead in your drinking water.

(ii) **Health effects of lead.** Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

(iii) **Sources of Lead.**

(A) Explain what lead is.

(B) Explain possible sources of lead in drinking water and how lead enters drinking water. Include information on homes/building plumbing materials and service lines that may contain lead.

(C) Discuss other important sources of lead exposure in addition to drinking water (e.g., paint).

(iv) **Discuss the steps the consumer can take to reduce their exposure to lead in drinking water.**

(A) Encourage running the water to flush out the lead.

(B) Explain concerns with using hot water from the tap and specifically caution against the use of hot water for preparing baby formula.

(C) Explain that boiling water does not reduce lead levels.

(D) Discuss other options consumers can take to reduce exposure to lead in drinking water, such as alternative sources or treatment of water.

(E) Suggest that parents have their child's blood tested for lead.

(v) Explain why there are elevated levels of lead in the system's drinking water (if known) and what the water system is doing to reduce the lead levels in homes/buildings in this area..

(vi) For more information, call us at [INSERT YOUR NUMBER] [(IF APPLICABLE), or visit our Web site at [INSERT YOUR WEB SITE HERE]]. For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's website at <http://www.epa.gov/lead> or contact your health care provider.

(b) **Community water systems.** In addition to including the elements specified in paragraph (1)(a) of this section, community water systems must:

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- (1) Tell consumers how to get their water tested.
- (2) Discuss lead in plumbing components and the difference between low lead and lead free.

(2) Delivery of public education materials:

(a) For public water systems serving a large proportion of non-English speaking consumers, as determined by the Department, the public education material must contain information in the appropriate language(s) regarding the importance of the notice or contain a telephone number or address where persons served may contact the water system to obtain a translated copy of the public education materials or to request assistance in the appropriate language.

(b) A community water system that exceeds the lead action level on the basis of tap water samples collected in accordance with Section H and that is not already conducting public education tasks under this section, must conduct the public education tasks under this section within 60 days after the end of the monitoring period in which the exceedance occurred:

(i) Deliver printed materials meeting the content requirements of paragraph (a) of this section to all billing customers.

(ii)(A) Contact customers who are most at risk by delivering education materials that meet the content requirements of paragraph (a) of this section to local public health agencies even if they are not located within the water system's area, along with an informational notice that encourages distribution to all the organization's potentially affected customers or community water system's users. The water system must contact the local public health agencies directly by phone or in person. The local public health agencies may provide a specific list of additional community-based organizations serving target populations, which may include organizations outside the service area of the water system. If such lists are provided, systems must deliver education materials that meet the content requirements of paragraph (a) of this section to all organizations on the provided lists.

(B) Contact customers who are most at risk by delivering materials that meet the content requirements of paragraph (a) of this section to the following organizations listed in (1) through (6) below that are located within the water system's service area, along with an information notice that encourages distribution to all the organization's potentially affected customers or community water system's users:

- (1) Public and private schools or school boards.
- (2) Women, Infants and Children (WIC) and Head Start Programs.
- (3) Public and private hospitals and medical clinics.
- (4) Pediatricians.
- (5) Family planning clinics.
- (6) Local welfare agencies.

(C) Make a good faith effort to locate the following organizations within the service area and deliver materials that meet the content requirements of paragraph (a) of this section to them, along with an informational notice that encourages distribution to all potentially affected customers or users. The good faith effort to contact at-risk customers may include requesting a specific contact list of these organizations from the local public health agencies, even if the agencies are not located within the water system's service area:

- (1) Licensed childcare centers.
- (2) Public and private preschools.
- (3) Obstetricians-Gynecologist and Midwives.

(iii) No less often than quarterly, provide information on or in each water bill as long as the system exceeds the action level for lead. The message on the water bill must include the following statement exactly as written except for the text in brackets for which the water system must include system-specific information: [INSERT NAME OF WATER SYSTEM] found high levels of lead in drinking water in some homes. Lead can cause serious health problems. For more information please call [INSERT NAME OF WATER SYSTEM] [or visit (INSERT YOUR WEB SITE HERE)]. The message or delivery mechanism can be modified in consultation with the Department; specifically, the Department may allow a separate mailing of public education materials to customers if the water system cannot place the information on water bills.

(iv) Post materials meeting the content requirements of paragraph (a) of this section on the water system's Web site if the system serves a population of greater than 100,000.

(v) Submit a press release to newspaper, television and radio stations.

(vi) In addition to paragraph 2(a)(i) through (v) of this section, systems must implement at least three activities from one or more categories listed below. The educational content and selection of these activities must be determined in consultation with the Department.

- (A) Public Service Announcements.
- (B) Paid advertisements.
- (C) Public Area Information Displays.
- (D) E-mails to customers.
- (E) Public Meetings.
- (F) Household Deliveries.
- (G) Targeted Individual Customer Contact.
- (H) Direct material distribution to all multi-family homes and institutions.
- (I) Other methods approved by the Department.

(vii) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Department has established an alternate monitoring period, the last day of that period.

(c) As long as a community water system exceeds the action level, it must repeat the activities pursuant to paragraph (2)(b) of this section as described in paragraphs (2)(c)(i) through (iv) of this section.

(i) A community water system shall repeat the tasks contained in paragraphs (2)(c)(i), (ii) and (vi) of this section every 12 months.

(ii) A community water system shall repeat the tasks contained in paragraph (2)(c)(iii) of this section with each billing cycle.

(iii) A community water system serving a population greater than 100,000 shall post and retain material on a publicly accessible Web site pursuant to paragraph (2)(c)(iv) of this section.

(iv) The community water system shall repeat the task in paragraph (2)(c)(v) of this section twice every twelve (12) months on a schedule agreed upon with the Department. The Department can allow activities in paragraph (2)(b) of this section to extend beyond the sixty (60) day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the Department in advance of the sixty (60) day deadline.

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(d) Within sixty (60) days after the end of the monitoring period in which the exceedance occurred (unless it already is repeating public education tasks pursuant to paragraph (2)(e) of this section), a non-transient non-community water system shall deliver the public education materials specified in paragraph (a) of this section as follows:

(i) Post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system; and

(ii) Distribute informational pamphlets and/or brochures on lead in drinking water to each person served by the non-transient non-community water system. The Department may allow the system to utilize electronic transmission in lieu of or combined with printed materials as long as it achieves at least the same coverage.

(iii) For systems that are required to conduct monitoring annually or less frequently, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or, if the Department has established an alternate monitoring period, the last day of that period.

(e) A non-transient non-community water system shall repeat the tasks contained in paragraph (2)(d) of this section at least once during each calendar year in which the system exceeds the lead action level. The Department can allow activities in (2)(d) of this section to extend beyond the sixty (60) day requirement if needed for implementation purposes on a case-by-case basis; however, this extension must be approved in writing by the Department in advance of the sixty (60) day deadline.

(f) A water system may discontinue delivery of public education materials if the system has met the lead action level during the most recent six-month monitoring period conducted pursuant to Section H. Such a system shall recommence public education in accordance with this section if it subsequently exceeds the lead action level during any monitoring period.

(g) A community water system may apply to the Department, in writing (unless the Department has waived the requirement for prior Department approval), to use only the text specified in paragraph (1)(a) of this section in lieu of the text in paragraphs (1)(a) and (1)(b) of this section and to perform the tasks listed in paragraphs (2)(d) and (2)(e) of this section in lieu of the tasks in paragraphs (2)(b) and (2)(c) of this section if:

(i) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices; and

(ii) The system provides water as part of the cost of services provided and does not separately charge for water consumption.

(h) A community water system serving 3,300 or fewer people may limit certain aspects of their public education programs as follows:

(i) With respect to the requirements of paragraph (b)(2)(vi) of this section, a system serving 3,300 or fewer people must implement at least one of the activities listed in that paragraph.

(ii) With respect to the requirements of paragraph (b)(2)(ii) of this section, a system serving 3,300 or fewer people may limit the distribution of the public education materials required under that paragraph to facilities and organizations served by the system that are most likely to be visited regularly by pregnant women and children.

(iii) With respect to the requirements of paragraph (b)(2)(v) of this section, the Department may waive this requirement for systems serving 3,300 or fewer persons as long as the system distributes notices to every household served by the system.

(3) Supplemental monitoring and notification of results.

A water system that fails to meet the lead action level on the basis of tap samples collected in accordance with Section H shall offer to sample the tap water of any customer who requests it. The system is not required to pay for collecting or analyzing the sample, nor is the system required to collect and analyze the sample itself.

(4) Notification of results.

(a) Reporting requirements. All water systems must provide a notice of the individual tap results from lead tap water monitoring carried out under the requirements of Section H to the persons served by the water system at the specific sampling site from which the sample was taken (e.g., the occupants of the residence where the tap was tested).

(b) Timing of notification. A water system must provide the consumer notice as soon as practical, but no later than thirty (30) days after the system learns of the tap monitoring results.

(c) Content. The consumer notice must include the results of lead tap water monitoring for the tap that was tested, an explanation of the health effects of lead, list steps consumers can take to reduce exposure to lead in drinking water and contact information for the water utility. The notice must also provide the maximum contaminant level goal and the action level for lead and the definitions for these two terms from R.61-58.6 Appendix D.

(d) Delivery. The consumer notice must be provided to persons served at the tap that was tested, either by mail or by another method approved by the Department. For example, upon approval by the Department, a non-transient non-community water system could post the results on a bulletin board in the facility to allow users to review the information. The system must provide the notice to customers at sample taps tested, including consumers who do not receive water bills.

Revise R.61-58.11.H(2)(e) to read:

(e) A non-transient non-community water system, or a community water system that meets the criteria of Section G(2)(g) above, that does not have enough taps that can supply first-draw samples, as defined in R.61-58(B), may apply to the Department in writing to substitute non-first-draw samples. Such systems must collect as many first-draw samples from appropriate taps as possible and identify sampling times and locations that would likely result in the longest standing time for the remaining sites. The Department has the discretion to waive the requirement for prior Department approval of non-first-draw sample sites selected by the system, either through State regulation or written notification to the system.

Revise R.61-58.11.H(3) to read:

(3) Number of Samples - Water systems shall collect at least one (1) sample during each monitoring period specified in paragraph (4) of this section from the number of sites listed in the first column ("standard monitoring") of the table in this paragraph. A system conducting reduced monitoring under paragraph (4)(d) of this section shall collect at least one (1) sample from the number of sites specified in the second column ("reduced monitoring") of the table in this paragraph during each monitoring period specified in paragraph (4)(d) of this section. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. A public water system that has fewer than five drinking water taps, that can be used for human

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consumption meeting the sample site criteria of paragraph (1) of this section to reach the required number of sample sites listed in paragraph (3) of this section, must collect at least one sample from each tap and then must collect additional samples from those taps on different days during the monitoring period to meet the required number of sites. Alternatively the Department may allow these public water systems to collect a number of samples less than the number of sites specified in paragraph (3) of this section, provided that one hundred (100) percent of all taps that can be used for human consumption are sampled. The Department must approve this reduction of the minimum number of samples in writing based on a request from the system or onsite verification by the Department. The Department may specify sampling locations when a system is conducting reduced monitoring. The table is as follows:

System Size (# People Served)	# of Sites (Standard Monitoring)	# of Sites (Reduced Monitoring)
>100,000	100	50
10,001 to 100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
<= 100	5	5

Revise R.61-58.11.H(4)(d)(i) to read:

(i) A small or medium-size water system that meets the lead and copper action levels during each of two (2) consecutive six (6) month monitoring periods may reduce the number of samples in accordance with paragraph (3) of this section, and reduce the frequency of sampling to once per year. A small or medium water system collecting fewer than five (5) samples as specified in paragraph (3) of this section, that meets the lead and copper action levels during each of two consecutive six-month monitoring periods may reduce the frequency of sampling to once per year. In no case can the system reduce the number of samples required below the minimum of one sample per available tap. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

Revise R.61-58.11.H(4)(d)(ii) to read:

(ii) Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department under Section D(6) above, during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and ~~to~~ reduce the number of lead and copper samples in accordance with paragraph (3) of this section if it receives written approval from the Department. This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period. The Department shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with Section L below, and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring pursuant to this paragraph. The Department shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

Revise R.61-58.11.H(4)(d)(iii) to read:

(iii) A small or medium-size water system that meets the lead and copper action levels during three (3) consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three (3) years. Any water system that meets the lead action level and maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the Department under Section D(6), during three consecutive years of monitoring may reduce the

frequency of monitoring from annually to once every three years if it receives written approval from the Department. Samples collected once every three years shall be collected no later than every third calendar year. The Department shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with Section L below, and shall notify the system in writing, when it determines the system is eligible to reduce the frequency of monitoring to once every three years. The Department shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

Add R.61-58.11.H(4)(d)(iv)(A) to read:

(A) The Department, at its discretion, may approve a different period for conducting the lead and copper tap sampling for systems collecting a reduced number of samples. Such a period shall be no longer than four (4) consecutive months and must represent a time of normal operation where the highest levels of lead are most likely to occur. For a non-transient non-community water system that does not operate during the months of June through September, and for which the period of normal operation where the highest levels of lead are most likely to occur is not known, the Department shall designate a period that represents a time of normal operation for the system. This sampling shall begin during the period approved or designated by the Department in the calendar year immediately following the end of the second consecutive six-month monitoring period for systems initiating annual monitoring and during the three-year period following the end of the third consecutive calendar year of annual monitoring for systems initiating triennial monitoring.

Add R.61-58.11.H(4)(d)(iv)(B) to read:

(B) Systems monitoring annually, that have been collecting samples during the months of June through September and that receive Department approval to alter their sample collection period under paragraph (4)(a)(iv)(A) of this section, must collect their next round of samples during a time period that ends no later than forty-five (45) months after the previous round of sampling. Subsequent rounds of sampling must be collected annually or triennially, as required by this section. Small systems with waivers, granted pursuant to paragraph (7) of this section, that have been collecting samples during the months of June through September and receive Department approval to alter their sample collection period under paragraph (4)(d)(iv)(A) of this section, must collect their next round of samples before then end of the nine (9) year period.

Revise R.61-58.11.H(4)(d)(vi)(B) and R.61-58.11.H(4)(d)(vi)(B)(1); subitems (2) and (3) remain the same:

(B) Any water system subject to the reduced monitoring frequency that fails to meet the lead action level during any four-month monitoring period or that fails to operate at or above the minimum value or within the range of values for the water quality parameters specified by the Department under Section D(6) above, for more than nine (9) days in any six-month period specified in Section I(4) below, shall conduct tap water sampling for lead and copper at the frequency specified in paragraph (4)(c) of this section, collect the number of samples specified for standard monitoring under paragraph (3) of this section, and shall resume monitoring for water quality parameters within the distribution system in accordance with Section I(4) below. This standard tap water sampling shall begin no later than the six-month period beginning January 1 of the calendar year following the lead action level exceedance or water quality parameter excursion. Such a system may resume reduced monitoring for lead and copper at the tap and for water quality parameters within the distribution system under the following conditions:

(1) The system may resume annual monitoring for lead and copper at the tap at the reduced number of sites specified in paragraph (3) of this section after it has completed two subsequent six-month rounds of monitoring that meet the criteria of paragraph (4)(d)(ii) of this section and the system has received written approval from the Department that it is appropriate to resume reduced monitoring on an annual frequency.

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This sampling shall begin during the calendar year immediately following the end of the second consecutive six-month monitoring period.

Revise R.61-58.11.H(4)(d)(vii) to read:

(vii) Any water system subject to a reduced monitoring frequency under paragraph (4)(d) of this section shall notify the Department in writing in accordance with Section L(1)(c) of any upcoming long-term change in treatment or addition of a new source as described in that section. The Department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Department may require the system to resume sampling in accordance with paragraph (4)(c) of this section and collect the number of samples specified for standard monitoring under paragraph (3) of this section or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations

Revise R.61-58.11.H(7)(d)(i) to read:

(i) A system with a full waiver must conduct tap water monitoring for lead and copper in accordance with paragraph (4)(d)(iv) of this section at the reduced number of sampling sites identified in paragraph (3) of this section at least once every nine (9) years and provide the materials certification specified in paragraph (7)(a) of this section for both lead and copper to the Department along with the monitoring results. Samples collected every nine (9) years shall be collected no later than every ninth calendar year.

Revise R.61-58.11.H(7)(d)(iii) to read:

(iii) Any water system with a full or partial waiver shall notify the Department in writing in accordance with Section L(1)(c) of any upcoming long-term change in treatment or addition of a new source, as described in that section. The Department must review and approve the addition of a new source or long-term change in water treatment before it is implemented by the water system. The Department has the authority to require the system to add or modify waiver conditions (e.g., require recertification that the system is free of lead-containing and/or copper-containing materials, require additional round(s) of monitoring), if it deems such modifications are necessary to address treatment or source water changes at the system.

Revise R.61-58.11.I(4) to read:

(4) Monitoring After the Department Specifies Water Quality Parameter Values for Optimal Corrosion Control -- After the Department specifies the values for applicable water quality control parameters reflecting optimal corrosion control treatment under Section D(6) above, all large systems shall measure the applicable water quality parameters in accordance with paragraph (3) of this section and determine compliance with the requirements of Section D(7) every six (6) months with the first six (6) month period to begin on either January 1 or July 1, whichever comes first, after the Department specifies the optimal values under Section D(6) above. Any small or medium-size system shall conduct such monitoring during each six (6) month period specified in this paragraph in which the system exceeds the lead or copper action level. For any such small and medium-size system that is subject to a reduced monitoring frequency pursuant to Section H(4)(d) at the time of the action level exceedance, the start of the applicable six-month monitoring period under this paragraph shall coincide with the start of the applicable monitoring period under Section H(4)(d) above. Compliance with Department-designated optimal water quality parameter values shall be determined as specified under Section D(7).

Revise R.61-58.11.I(5)(b)(i) to read:

(b)(i) Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under Section D(6) above during three (3) consecutive years of monitoring may reduce the frequency with which it collects the number of tap samples

for applicable water quality parameters specified in this paragraph (5)(a) of this section from every six months to annually. This sampling begins during the calendar year immediately following the end of the monitoring period in which the third consecutive year of six-month monitoring occurs. Any water system that maintains the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under D(6) during three (3) consecutive years of annual monitoring under this paragraph may reduce the frequency with which it collects the number of tap samples for applicable water quality parameters specified in paragraph (5)(a) of this section from annually to every three (3) years. This sampling begins no later than the third calendar year following the end of the monitoring period in which the third consecutive year of monitoring occurs.

Revise R.61-58.11.I(5)(b)(ii) to read:

(ii) A water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in paragraph (5)(a) of this section to every three (3) years if it demonstrates during two (2) consecutive monitoring periods that its tap water lead level at the 90th percentile is less than or equal to the PQL for lead specified in Section K(1)(a)(ii) above, that its tap water copper level at the 90th percentile is less than or equal to 0.65 mg/L for copper in Section B(1)(b) above, and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the Department under Section D(6) above. Monitoring conducted every three (3) years shall be done no later than every third calendar year.

Revise R.61-58.11.J(2) to read:

(2) Monitoring Frequency After System Exceeds Tap Water Action Level -- Any system which exceeds the lead or copper action level at the tap shall collect one source water sample from each entry point to the distribution system no later than six (6) months after the end of the monitoring period during which the lead or copper action level was exceeded. For monitoring periods that are annual or less frequent, the end of the monitoring period is September 30 of the calendar year in which the sampling occurs, or if the Department has established an alternate monitoring period, the last day of that period.

Revise R.61-58.11.J(4)(a)(i) to read:

(i) A water system using only groundwater shall collect samples once during the three (3) year compliance period (as that term is defined in R.61-58.B, Definitions) in effect when the applicable Department determination under paragraph (4)(a) of this section is made. Such systems shall collect samples once during each subsequent compliance period. Triennial samples shall be collected every third calendar year.

Revise R.61-58.11.J(4)(a)(ii) to read:

(ii) A water system using surface water (or a combination of surface and groundwater) shall collect samples once during each calendar year, the first annual monitoring period to begin during the year in which the applicable Department determination is made under paragraph (4)(a) of this section.

Revise introductory paragraph at R.61-58.11.J(5)(a); subitems J(5)(a)(i) and (ii) remain the same:

(a) A water system using only ground water may reduce the monitoring frequency for lead and copper in source water to once during each nine-year compliance cycle (as that term is defined in R.61-58.B, Definitions) provided that the samples are collected no later than every ninth calendar year and if the systems meets one of the following criteria:

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Revise introductory paragraph at R.61-58.11.J(5)(b); subitems J(5)(b)(i) and (ii) remain the same:

(b) A water system using surface water (or a combination of surface and ground waters) may reduce the monitoring frequency in paragraph (4)(a) of this section to once during each nine-year compliance cycle (as that term is defined in R.61-58.B, Definitions) provided that the samples are collected no later than every ninth calendar year and if the system meets one of the following criteria:

Revise introductory paragraph at R.61-58.11.L(1)(a); subitems L(1)(a)(i) through (vii) remain the same:

(a) Except as provided in paragraph (1)(a)(viii) of this section a water system shall report the information specified below for all tap water samples specified in Section H and for all water quality parameter samples specified in Section I within the first 10 days following the end of each applicable monitoring period specified in Sections H, and I above (i.e., every six (6) months, annually, every three (3) years, or every nine (9) years). For monitoring periods with a duration less than six (6) months, the end of the monitoring period is the last date samples can be collected during that period as specified in section H and I.

Revise introductory paragraph at R.61-58.11.L(1)(b); subitems L(1)(b)(i) and (ii) remain the same:

(b) For a non-transient non-community water system, or a community water system meeting the criteria of Section G(2)(g) above, that does not have enough taps that can provide first-draw samples, the system must either:

Revise paragraph R.61-58.11.L(1)(c) to read:

(c) At a time specified by the Department, or if no specific time is designated by the Department, then as early as possible prior to the addition of a new source or any long-term change in water treatment, a water system deemed to have optimized corrosion control under Section C(2)(c), a water system subject to reduced monitoring pursuant to Section H(4)(d), or a water system subject to a monitoring waiver pursuant to Section H(7), shall submit written documentation to the Department describing the change or addition. The Department must review and approve the addition of a new source or long-term change in treatment before it is implemented by the water system. Examples of long-term treatment changes include the addition of a new treatment process or modification of an existing treatment process. Examples of modifications include switching secondary disinfectants, switching coagulants (e.g., alum to ferric chloride), and switching corrosion inhibitor products (e.g., orthophosphate to blended phosphate). Long-term changes can include dose changes to existing chemicals if the system is planning long-term changes to its finished water pH or residual inhibitor concentration. Long-term treatment changes would not include chemical dose fluctuations associated with daily raw water quality changes.

Revise R.61-58.11.L(5)(a) to read:

(a) No later than twelve (12) months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in Section F(1) above, the system must submit written documentation to the Department of the materials evaluation conducted as required in Section H(1) identify the initial number of lead service lines in its distribution system at the time the system exceeds the lead action level, and provide the system's schedule for annually replacing at least seven (7) percent of the initial number of lead service lines in its distribution system.

Revise introductory paragraph at R.61-58.11.L(5)(b); subitem L(5)(b)(i) remains the same:

(b) No later than twelve (12) months after the end of a monitoring period in which a system exceeds the lead action level in sampling referred to in Section F(1) above, and every twelve (12) months thereafter, the system shall demonstrate to the Department in writing that the system has either:

Revise paragraph R.61-58.11.L(5)(b)(ii) to read:

(ii) Conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to Section H(2)(c) above, is less than or equal to 0.015 mg/L. In such cases, the total number of lines replaced and/or which meet the criteria in Section F(3) above, shall equal at least seven (7) percent of the initial number of lead lines identified under paragraph 5(a) of this section (or the percentage specified by the Department under Section F(5) above).

Revise introductory paragraph at R.61-58.11.L(6)(a); subitem L(6)(a)(ii) remains the same:

(a) Any water system that is subject to the public education requirements in Section G shall, within ten days after the end of each period in which the system is required to perform public education in accordance with Section G(2) above, send written documentation to the Department that contains:

Revise paragraph R.61-58.11.L(6)(a)(i) to read:

(i) A demonstration that the system has delivered the public education materials that meet the content requirements in Section G(1) and the delivery requirements in Section G(2); and

Add paragraph R.61-58.11.L(6)(c) to read:

(c) No later than three (3) months following the end of the monitoring period, each system must mail a sample copy of the consumer notification of tap results to the Department along with a certification that the notification has been distributed in a manner consistent with the requirements of Section G(4).

Revise paragraph R.61-58.12.D(4) and D(4)(a) & (b) to read:

(4) Every report must include the following lead-specific information:

(a) A short informational statement about lead in drinking water and its effect on children. The statement must include the following information: If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. [NAME OF UTILITY] is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or <http://www.epa.gov/safewater/lead>.

(b) A system may write its own educational statement, but only in consultation with the Department.

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Statement of Need and Reasonableness:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Sections 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 has amended R.61-58 to adopt federal regulations known as Lead and Copper: Short Term Regulatory Revisions and Clarifications This final rule was published in the *Federal Register* at 40 CFR Parts 141 and 142 on October 10, 2007. This amendment complies with Federal law and ensures consistency with the Safe Drinking Water Act and the National Primary Drinking Water Regulations and enables the Department to retain primary enforcement responsibility for the public drinking water supervision program. This action is mandated by the 1996 amendments to the Federal Safe Drinking Water Act. These regulations comply with 40 CFR Parts 141 and 142.

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

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

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

The adoption of these regulations allows 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. These regulations comply with 40 CFR Parts 141 and 142. This rule makes minor changes in sampling procedures and lead service line replacement requirements and enhances public education requirements under the Lead and Copper Rule.

DETERMINATION OF COSTS AND BENEFITS:

A fiscal impact statement is not required for regulations that do not require legislative review pursuant to S.C. Code Section 1-23-120; however, the Lead and Copper: Short Term Regulatory Revisions and Clarifications will have minimal financial impact. See 40 CFR 141 for more detailed information.

UNCERTAINTIES OF ESTIMATES:

Minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The amendments promote public health through enhanced public education.

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

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

Document No. 4076
DEPARTMENT OF NATURAL RESOURCES
 CHAPTER 123
 Statutory Authority: 1976 Code Section 50-15-70

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

Synopsis:

These regulations amend Chapter 123-150 and 123-150.2 to change the composition of both the endangered species list and the list of species in need of management for South Carolina to comply with changes in federal law. The change will remove the American peregrine falcon and arctic peregrine falcon from the state list of endangered species and add it to the list of species in need of management. In addition, it will change the list of the Southern bald eagle to bald eagle to correct taxonomic nomenclature.

The Notice of Drafting was published in the *State Register* on March 27, 2009.

Instructions:

Amend regulations 123-150 and 123-150.2 to establish changes as described above.

Text:

ARTICLE 5

NON-GAME AND ENDANGERED SPECIES

123-150. Non-Game and Endangered Species

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

I. Birds

1. Bachman's Warbler (*Vermivora bachmanii*)
2. Bewick's Wren (*Thryomanes bewickii*)
3. Eskimo Curlew (*Numenius borealis*)
4. Kirtland's Warbler (*Dendroica kirtlandii*)
5. Piping Plover (*Charadrius melodus*)
6. Red-cockaded Woodpecker (*Picoides borealis*)
7. Swallow-tailed Kite (*Elanoides forficatus*)
8. Wood Stork (*Mycteria americana*)

II. Fish

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

III. Mammals

1. Atlantic Right Whale (*Eubalaena glacialis*)
2. Blue Whale (*Balaenoptera musculus*)
3. Bowhead Whale (*Balaena mysticetus*)
4. Eastern Cougar (*Felis concolor cougar*)
5. Finback Whale (*Balaenoptera physalus*)
6. Florida Manatee (*Trichechus manatus*)
7. Humpback Whale (*Megaptera novaengliae*)

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8. Indiana Bat (*Myotis sodalis*)
9. Sei Whale (*Balaenoptera borealis*)
10. Sperm Whale (*Physeter catodon*)
11. Rafinesque's Big-eared Bat (*Plecotus rafinesquii*)

IV. Reptiles

1. Atlantic Leatherback Turtle (*Dermochelys c. coriacea*)
2. Atlantic Ridley Turtle (*Lepidochelys kempii*)
3. Gopher Tortoise (*Gopherus polyphemus*)
4. Atlantic Hawksbill Sea Turtle (*Eretmochelys imbricata*)

V. Amphibians

1. Flatwoods Salamander (*Ambystoma cingulatum*)
2. Webster's Salamander (*Plethodon websteri*)
3. Carolina Gopher Frog (*Rana c. capito*)

VI. Molluscs

1. Atlantic Pigtoe Mussel (*Fusconaia masoni*)
2. Brother Spike Mussel (*Elliptio fraterna*)

2. It shall be unlawful for any person to take, possess, transport, export, process, sell, or offer for sale or ship, and for any common carrier knowingly to transport or receive for shipment any species or subspecies of wildlife appearing on the list of "Endangered Wildlife Species of South Carolina", except by permit for scientific and conservation purposes issued by the South Carolina Department of Natural Resources.

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

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

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

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

I. Birds

1. American Peregrine Falcon (*Falco peregrines anatum*)
2. Bald Eagle (*Haliaeetus leucocephalus*)
3. Bewick's Wren (*Thryomanes bewickii*)
4. Common Ground Dove (*Columbina passerina*)
5. Least Tern (*Sterna albifrons*)
6. Wilson's Plover (*Charadrius wilsonia*)

II. Fish

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

III. Reptiles

1. American Alligator (*Alligator mississippiensis*)
2. Atlantic Loggerhead Sea Turtle (*Caretta caretta*)
3. Atlantic Green Sea Turtle (*Chelonia mydas*)
4. Coal Skink (*Eumeces anthracinus*)
5. Bog Turtle (*Clemmys muhlenbergii*)
6. Spotted Turtle (*Clemmys guttata*)
7. Southern Hognose Snake (*Heterodon simus*)

IV. Amphibians

1. Dwarf Siren (*Pseudobranchius striatus*)
2. Pine Barrens Treefrog (*Hyla andersonii*)

V. Mammals

1. Small-footed Bat (*Myotis leibii*)

Fiscal Impact Statement:

This amendment will not result in any fiscal impact to the state or the department.

Statement of Rationale:

Rationale for the formulation of these regulations is based on changes to the endangered species list of the U.S. Fish and Wildlife Service as published in the federal register: American peregrine falcon delisted with a status of recovered 64 FR 46541 46558, August 25, 1999; Arctic peregrine falcon delisted with a status of recovered 59 FR 50796 50805, October 5, 1994 and bald eagle delisted with a status of recovered 72 FR 37345 37372, July 9, 2007.