

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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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.

2011 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	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

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

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

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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. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4163			Board of Landscape Architectural Examiners	1/19/12	Board of Landscape Architectural Exam
4161			Water Classifications and Standards	1/24/12	Department of Health and Envir Control
4162			Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	1/26/12	Environmental Certification Board
4174			Hazardous Waste Management Regulations	2/21/12	Department of Health and Envir Control
4175			Hazardous Waste Management Planning	2/21/12	Department of Health and Envir Control
4176			Capital Expenditure Reviews Under Section 1122, Social Security Act	2/21/12	Department of Health and Envir Control
4180			Minimum Standards for Licensing Chiropractic Facilities	2/21/12	Department of Health and Envir Control
4182			Licensure for the Savannah River	3/19/12	Commissioners of Pilotage
4179			Electronic Equipment Collection and Recovery	3/24/12	Department of Health and Envir Control
4181			Certification of Need for Health Facilities and Services	5/07/12	Department of Health and Envir Control
4186			Soil Classifiers	5/09/12	LLR - Soil Classifiers Advisory Council
Committee Request Assessment Report					
4132			Environmental Protection Fees (Radioactive Material Licenses Fees)	Tolled	Department of Health and Envir Control
4139			Environmental Protection Fees (Drinking Water Fees)	Tolled	Department of Health and Envir Control
Committee Request Withdrawal					
4168			Perpetual Care Cemetery Board	Tolled	SC Perpetual Care Cemetery Board
4164			Child Labor	Tolled	Division of Labor
4183			International Residential Code	Tolled	LLR-Building Codes Council
4184			Update of International and National Codes	Tolled	LLR-Building Codes Council
Resolution Introduced to Disapprove					
4126			South Carolina Pesticide Control (R.27-1079 only)	Tolled	Clemson University-State Crop Pest Comm.

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
4163	Board of Landscape Architectural Examiners	Labor, Commerce and Industry	Labor, Commerce and Industry
4161	Water Classifications and Standards	Agriculture and Natural Resources	Agriculture and Natural Resources
4162	Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	Agriculture and Natural Resources	Labor, Commerce and Industry
4174	Hazardous Waste Management Regulations	Agriculture and Natural Resources	Medical Affairs
4175	Hazardous Waste Management Planning	Agriculture and Natural Resources	Medical Affairs
4176	Capital Expenditure Reviews Under Section 1122, Social Security Act	Ways and Means	Medical Affairs
4180	Minimum Standards for Licensing Chiropractic Facilities	Medical, Military, Pub & Mun Affairs	Medical Affairs
4182	Licensure for the Savannah River	Agriculture and Natural Resources	Labor, Commerce and Industry
4179	Electronic Equipment Collection and Recovery	Agriculture and Natural Resources	Medical Affairs
4181	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs
4186	Soil Classifiers		
Committee Request Assessment Report			
4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
4139	Environmental Protection Fees (Drinking Water Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
Committee Request Withdrawal			
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4164	Child Labor	Labor, Commerce and Industry	Labor, Commerce and Industry
4183	International Residential Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4184	Update of International and National Codes	Labor, Commerce and Industry	Labor, Commerce and Industry
Resolution Introduced to Disapprove			
4126	South Carolina Pesticide Control (R.27-1079 only)	Agriculture and Natural Resources	Agriculture and Natural Resources

Executive Order No. 2011-19

WHEREAS, on August 25, 2011, North Carolina declared a state of emergency due to Hurricane Irene and temporarily suspended motor vehicle regulations pursuant to 49 C.F.R. Section 390.23. On September 8, 2011, North Carolina issued Executive Order Number 107 to allow the Federal Emergency Management Agency to move mobile home units from Alabama to North Carolina to aid in the hurricane recovery efforts; and

WHEREAS, S.C. Code Section 56-5-70(B) provides that when North Carolina declares an emergency that triggers relief from regulations pursuant to 49 C.F.R. 390.23, the South Carolina Governor must declare an emergency in this state; and

WHEREAS, on August 31, 2011, I issued Executive Order 2011-17 acknowledging the emergency in North Carolina and ordering the Department of Transportation in conjunction with the Department of Public Safety to waive certain size and weight restrictions and penalties pursuant to Section 56-5-70 for thirty days; and

WHEREAS, I received a request from North Carolina to extend our executive order by an additional thirty (30) days to allow the movement of FEMA mobile homes.

NOW THEREFORE, pursuant to authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby order that Executive Order 2011-17 shall be extended and shall remain in effect for an additional thirty (30) days from date of this Order to facilitate the movement of FEMA mobile homes from Alabama to North Carolina to assist with emergency recovery efforts resulting from Hurricane Irene.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 29th DAY OF SEPTEMBER 2011.**

**NIKKI R. HALEY
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:

2012 Edition of the International Building Code;
2012 Edition of the International Residential Code;
2012 Edition of the International Fire Code;
2012 Edition of the International Plumbing Code;
2012 Edition of the International Mechanical Code;
2012 Edition of the International Fuel Gas Code;
2012 Edition of the National Electrical Code.

Permissive codes include the:

2012 Edition of the International Property Maintenance Code;
2012 Edition of the International Existing Building Code;
2012 Edition of the International Performance Code for Buildings and Families.

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, P.O. Box 11329, Columbia, SC 29211-1329, on or before March 1, 2012.

DEPARTMENT OF EDUCATION

NOTICE OF GENERAL PUBLIC INTEREST

The South Carolina Public School Facilities Committee, authorized by 1976 Code Section 59-23-210 (Supp. 2010), approved the *2012 South Carolina School Facilities Planning and Construction Guide (2012 Guide)* on October 6, 2011. The document can be found on the Web site of the Office of School Facilities (OSF), South Carolina Department of Education: <http://ed.sc.gov/agency/os/School-Facilities/>.

The following codes and standards, in addition to the *2012 Guide*, shall establish minimum standards for South Carolina public schools. They will be effective January 1, 2012.

1. As published by the International Code Council, 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001 and all South Carolina Modifications as adopted by the South Carolina Building Codes Council:

- a. International Building Code (IBC), 2006 Edition
- b. International Existing Building Code (IEBC), 2006 Edition
- c. International Fire Code (IFC), 2006 Edition
- d. International Energy Conservation Code (IECC), 2006 Edition
- e. International Fuel Gas Code (IFGC), 2006 Edition
- f. International Mechanical Code (IMC), 2006 Edition
- g. International Plumbing Code (IPC), 2006 Edition, with the following insertions: Section 305.6.1, insert "24" and insert "24" and Section 904.1, insert "8"
- h. International Private Sewage Disposal Code (IPSDC), 2006 Edition
- i. International Property Maintenance Code (IPMC), 2006 Edition

j. International Residential Code for One and Two Family Dwellings (IRC), 2006 Edition, with the following insertions: Section P2603.6.1, insert “12” and insert “24”

k. International Wildland – Urban Interface Code (IUWIC), 2006 Edition

l. International Code Council Performance Code (ICCPC), 2006 Edition

2. As published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts, 02169-7471: National Electrical Code (NEC) [NFPA-70], 2008 Edition

3. As published by the American National Standards Institute, 1899 L Street, NW, 11th Floor, Washington, DC, 20036:

a. National Electrical Safety Code, ANSI-C2-2007 Edition

b. Accessible and Useable Buildings and Facilities, ANSI A117.1, latest edition

4. As published by the American Society of Heating, Refrigeration and Air Conditioning Engineers 1791 Tullie Circle, N.E., Atlanta, GA 30329:

a. ASHRAE 62

b. ASHRAE 90.1

5. As published by the American Society of Civil Engineers, 1801 Alexander Bell Drive, Reston, VA 20191, ASCE 7—2005.

6. South Carolina State Fire Marshal rules, regulations, and policies

7. South Carolina Elevator Code, & Regulations

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication October 28, 2011, 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. Paula J. Bracey, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Calhoun and Orangeburg County

Construction for the establishment of a freestanding Dialysis Access Institute on the campus of The Regional Medical Center which will be an expansion of current vascular services
The Regional Medical Center of Orangeburg & Calhoun Counties
Orangeburg, South Carolina
Project Cost: \$6,565,378

Affecting Charleston County

Purchase and installation of a Computed Tomography (CT) unit to be located within a newly constructed medical office building (MOB)
MUSC Specialty Care- East
Mount Pleasant, South Carolina
Project Cost: \$913,112

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Affecting Edgefield County

Establishment of a home health agency restricted to serve Edgefield County
Liberty HomeCare of Edgefield County
Aiken, South Carolina
Project Cost: \$57,200

Establishment of a home health agency restricted to serve Edgefield County
NHC/OP, L.P. d/b/a NHC HomeCare, Edgefield
Aiken, South Carolina
Project Cost: \$3,000

Affecting Lexington County

Construction and renovation for the addition of a 128-slice CT scanner, to be located adjacent to the Emergency Department
Lexington Medical Center
West Columbia, South Carolina
Project Costs: \$1,069,467

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from October 28, 2011. "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. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

Affecting Allendale County

Establishment of a home health agency restricted to serve Allendale County
Tri-County Home Health Care & Services, Inc.
Allendale, South Carolina
Project Cost: \$46,000

Affecting Charleston County

Conversion of twenty (20) existing licensed institutional nursing home beds to twenty (20) community nursing home beds to be added to the existing twenty-four (24) community nursing home beds for a total of forty-four (44) community nursing home beds that will not participate in the Medicaid (Title XIX) Program
Lutheran Homes of South Carolina, Inc. d/b/a the Franke Health Care Center
Mount Pleasant, South Carolina
Project Cost: \$0

Affecting Edgefield County

Establishment of a home health agency restricted to serve Edgefield County
Tri-County Home Health Care & Services, Inc.
Edgefield, South Carolina
Project Cost: \$56,000

Affecting Georgetown County

Construction for the establishment of a freestanding ambulatory surgical facility with two (2) operating rooms
 Murrells Inlet ASC, LLC
 Murrells Inlet, South Carolina
 Project Cost: \$6,327,300

Affecting Greenville County

Development of a freestanding radiation therapy center with a linear accelerator to be located on the Millennium Campus at Laurens Road and Innovation Way
 St. Francis Millennium Cancer Center
 Greenville, South Carolina
 Project Costs: \$11,943,572

Affecting Horry County

Construction for the establishment of a new radiation therapy service in a center attached to the main hospital
 Grand Strand Regional Medical Center
 Myrtle Beach, South Carolina
 Project Costs: \$9,788,625

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

State Register Document 4193
 Proposed Regulation 61-119, Surface Water Withdrawal, Permitting, Use and Reporting, and Proposed Repeal of Regulations 121-10, Water Use Reporting and Coordination, and 121-12, Interbasin Transfer of Water

The Department of Health and Environmental Control published a Notice of Proposed Regulation containing notice of opportunity for public comment in the State Register on August 26, 2011, identified as Document 4193. Proposed were new Regulation 61-119, Surface Water Withdrawal, Permitting, Use and Reporting, and repeal of Regulations 121-10, Water Use Reporting and Coordination, and 121-12, Interbasin Transfer of Water.

The aforementioned Notice (Document No. 4193) scheduled a Staff Informational Forum and write-in public comment period that closed September 26, 2011, and gave notice of a Public Hearing before the Department's Board for October 13, 2011.

Due to the time needed by Department staff to evaluate comments received through the public comment period and prepare for the public hearing, the Department has cancelled the public hearing originally scheduled for October 13, 2011, and rescheduled it for December 8, 2011. The public hearing will be held at the regularly scheduled Board meeting in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building, of the Department of Health and Environmental Control, 2600 Bull St., Columbia, SC. Please use the Bull Street entrance to the building if you plan to attend. 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 hearing will be noticed in the Board's agenda to be published by the Department at least twenty four hours in advance of the meeting on the Department's website at <http://www.scdhec.gov/administration/board.htm>.

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Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing on December 8, 2011. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulations.

Copies of the proposed regulations may be obtained by contacting Michael Bishop, South Carolina Department of Health and Environmental Control, Bureau of Water, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-3553. Also, an electronic copy may be obtained at <http://www.scstatehouse.gov/regs/4193.docx>, or from the Department's Regulation Development Update at <http://www.scdhec.gov/administration/regs/reg-update.htm> (Click on the Water category, and scan down for this proposed regulation - Document 4193).

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than November 14, 2011 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management - Underground Storage Tank Program
Attn: Michelle Dennison
2600 Bull Street
Columbia, SC 29201

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

Class II

Geo-Hydro Engineers, Inc.
Attn: John Firth O'Brien
1000 Cobb Place Blvd.
Kennesaw, GA 30144

BOARD OF ACCOUNTANCY

CHAPTER 1

Statutory Authority: 1976 Code Sections 40-1-70 and 40-2-70

Notice of Drafting:

The South Carolina Board of Accountancy proposes to amend its regulations in conformance with its practice act. Interested persons may submit comments to Doris Cubitt, Administrator, Board of Accountancy, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Board of Accountancy proposes to amend its regulations. Legislative review of this amendment is required.

ATHLETIC COMMISSION

CHAPTER 20

Statutory Authority: 1976 Code Sections 40-81-70 and 40-1-70

Notice of Drafting:

The South Carolina Athletic Commission proposes to add Regulation 20-27.01 through 20-27.22 to provide for mixed martial arts requirements. Interested persons may submit comments to Jay Pitts, Administrator, Athletic Commission, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Athletic Commission proposes to add Regulations 20-27.01 through 20-27.22 to regulate mixed martial arts in South Carolina. Legislative review of this regulation is required.

OFFICE OF THE ATTORNEY GENERAL

CHAPTER 13

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

Notice of Drafting:

The Office of the Attorney General proposes to amend certain current Regulations and promulgate additional regulations to implement the South Carolina Uniform Securities Act of 2005 and to reflect developments in securities regulation since 2005, including developments related to the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Interested persons may submit comments to Thresechia Navarro, Office of the S.C. Attorney General, Securities Division, P.O. Box 11549, Columbia, SC 29211-1549. To be considered, comments must be received no later than 5:00 p.m. on November 28, 2011, the close of the drafting comment period.

Synopsis:

The Office of the Attorney General proposes to update and clarify the current Regulations. Legislative review of the proposed regulations will be required.

10 DRAFTING NOTICES

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-18-110 (Supp. 2010), 59-29-10 et seq. (2004 and Supp. 2010), 59-33-30 (2004), 59-53-1810 (Supp. 2010), 20 U.S.C. 1232(g), and 20 U.S.C. 6301 et seq.

Notice of Drafting:

The South Carolina Board of Education proposes to amend regulation 43-234, Defined Program, Grades 9–12. Interested persons may submit their comments in writing to Steven Abbot, Office of Federal and State Accountability, Division of Accountability, 1429 Senate Street, Room 502, Columbia, South Carolina 29201 or by e-mail to sabbott@ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on November 28, 2011.

Synopsis:

Regulation 43-234, Defined Program, Grades 9–12, establishes that each school board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students. The regulation also stipulates that each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices. An amendment to the regulation will change the name to Defined Program, Grades 9-12, and High School Graduation Requirements. It will also clarify language in I. and VIII, and propose language to address proficiency based credit.

Legislative review of this proposal will be required.

STATE BOARD OF EDUCATION CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1), (3), and (6) (2004), 59-29-100 (2004), and 20 U.S.C. 6301 et seq. (2002)

Notice of Drafting:

The State Board of Education proposes to amend regulation 43-259, Graduation Requirements. Interested persons may submit comments to David B. Stout, Director of the Office of Adult Education, Division of Accountability, State Department of Education, 1429 Senate Street, Rutledge Building, Room 908, Columbia, South Carolina 29201 or by e-mail to dstout@ed.sc.gov. To be considered, comments must be received no later than 5:00 P.M., November 28, 2011, the close of the drafting period.

Synopsis:

The name of the regulation needs to be changed to Adult Education to reflect the content of the regulation. The graduation requirements within the regulation will be moved to Regulation 43–234, Defined Program, Grades 9–12, (which is also being changed to Defined Program, Grades 9–12, and High School Graduation Requirements) to more clearly outline the Adult Education program for the state. Verification of School Withdrawal has been more clearly defined. Revisions to the General Education Developmental (GED) testing guidelines have been clearly defined. Clarification regarding credit for virtual school and credit recovery classes is being addressed.

The name of the responsible office has changed and needs to be corrected from Office of Adult and Community Education to Office of Adult Education which is now in the Division of Accountability.

Legislative review of this proposal will be required.

**BOARD OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE DIVISION**

CHAPTER 15

Statutory Authority: 1976 Code Sections 37-22-110 et seq.,
particularly Section 37-22-260

Notice of Drafting:

The South Carolina Board of Financial Institutions/Consumer Finance Division proposes to draft R.15-64 addressing licensing of non-depository Mortgage Lenders/Service, Branch Offices and Loan Originators. Interested parties are invited to present their views in writing to Jim Copeland or Gayle Fletcher, Program Managers, South Carolina Board of Financial Institutions/Consumer Finance Division, 1205 Pendleton Street, Suite 306, Columbia, SC 29201. To be considered, comments must be received no later than 5 p.m. November 30, 2011, the close of the drafting comment period.

Synopsis:

The "South Carolina Mortgage Lending Act" (Act) was passed into law June 3, 2009 and became effective January 1, 2010 to be in compliance with the federal "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" (SAFE Act). The United States Department of Housing and Urban Development (HUD) recently promulgated rules pertaining to the SAFE Act (24 CFR Parts 30 and 3400). This regulation is being promulgated to comply with the HUD rules and to conform this regulation title and code sections cited to the licensing Act. Further, state-specific items will be clarified, deleted or modified to meet the new statutory language and authority, including license and record-keeping requirements.

The regulation will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control (Department) is proposing to amend Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (State Implementation Plan or SIP). Interested persons are invited to present their views concerning these amendments in writing to Mallori McAllister, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via electronic mail at mcallmk@dhec.sc.gov. To be considered, comments must be received by November 28, 2011, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 50, 51, 52, 60, 61, and 63 throughout each calendar year. Federal amendments in 2010 included revisions to the Prevention of Significant Deterioration program for particulate matter 2.5 micrometers in diameter and smaller (PM_{2.5}) to incorporate increments and screening tools, as well as new and revised New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), NESHAP for Source Categories, and National Ambient Air Quality Standards (NAAQS).

(1) Proposed Amendments of Regulations 61-62.60, New Source Performance Standards; 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP); and 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories:

12 DRAFTING NOTICES

The Department proposes to amend Regulations 61-62.60, 61-62.61, and 61-62.63, to incorporate by reference the federal amendments published from January 1, 2010, through December 31, 2010.

(2) Proposed Amendments of Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories:

The Department also proposes to amend Regulation 61-62.63, to incorporate a 2008 amendment to 40 CFR Part 63 based on a final rule entitled National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities (73 FR 35939; June 25, 2008).

(3) Proposed Amendment of Regulation 61-62.5, Standard 2, Ambient Air Quality Standards:

The Department also proposes to reformat the Ambient Air Quality Standards Table and revise Regulation 61-62.5, Standard 2, to incorporate the deletion of an annual standard for particulate matter (PM₁₀) that the EPA revoked in 2006.

(4) Proposed Amendments of Regulation 61-62.5, Standard 7, Prevention of Significant Deterioration:

The Department also proposes to amend Regulation, 61-62.5, Standard 7, to incorporate maximum allowable increases in ambient pollutant concentrations (“increments”) required by the rule entitled Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) (75 FR 64864; October 20, 2010). The final rule also adds two EPA screening tools, SILs and the SMC, for PM_{2.5}. These tools are not federally mandated and may be incorporated in a future action.

The Department may also propose other changes to Regulation 61-62, Air Pollution Control Regulations and Standards, that may include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

Pursuant to S.C. Code Section 1-23-120(H)(1), the proposed amendments in this Notice will not be more stringent than current federal requirements and thus do not require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Section 44-29-40

61-___. South Carolina Immunization Registry

Notice of Drafting:

The Department of Health and Environmental Control proposes to promulgate R.61-xx, South Carolina Immunization Registry, to implement S.C. Code Ann. Section 44-29-40 as amended by 2010 Act No. 210. Interested persons are invited to present their views in writing to Rodney Saylor, SC DHEC, Immunization Division, Box 101106, Columbia SC 29201. To be considered, comments must be received by 5:00 p.m. on November 28, 2011, the close of the drafting comment period.

Synopsis:

The General Assembly amended Code Section 44-29-40 to create a South Carolina immunization registry into which immunizations shall be entered by health care providers.

The Department intends to promulgate a new regulation (R.61-xx) to implement this statutory provision. The regulation will address issues including, but not limited to, the format and content of data submissions, how the registry will be accessed, who will be authorized to access the system, emergency reporting requirements, a schedule for implementing the new reporting requirements, for what purposes and by whom the registry information can be used, and compliance and enforcement. Legislative review will be required.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 38-72-10, 38-72-60, 38-72-70

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-44, Long Term Care Insurance. Interested persons should submit their comments in writing to: Leslie M. Jones, Deputy Director & 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 November 28, 2011, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-44, Long Term Care Insurance. Proposed amendments to Regulation 69-44, Long Term Care Insurance, will make changes to the types of long term care policies that may be offered for sale in South Carolina. No long term care policy may be offered for sale unless (1) it is non-cancellable; or (2) it will be paid in full within ten years of issuance; or (3) the total amount of rate increases over the life of the policy cannot increase by more than 50%. There may be no increases within the first five years of issuance of the policy.

Policies issued on a non-cancellable basis may not be cancelled for any reason other than non-payment of premiums and premiums may not be increased. In the event an insurer opts to offer a paid up policy or a policy limiting future premium increases, insurers will be required to include a notice to consumers upon application for and issuance of a long term care insurance policy of the maximum amounts of future rate increases allowed by law.

The proposed regulation will require legislative review.

DEPARTMENT OF TRANSPORTATION

CHAPTER 63

Statutory Authority: 1976 Code Section 12-28-2930

Notice of Drafting:

The South Carolina Department of Transportation proposes to amend certain sections of Regulations 63-700 et seq. for the Disadvantaged Business Enterprises (DBE) Program. Interested persons should submit their comments in writing to: Linda C. McDonald, Chief Counsel, P.O. Box 191, Columbia, SC, 29202 by no later than 5:00 p.m. on November 18, 2011, the end of the drafting comment period.

Synopsis:

The South Carolina Department of Transportation proposes to change references to certain Department offices and officials to their current names and to provide for different appeal procedures for initial certifications. The proposed revisions will require legislative review.

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Document No. 4203
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory authority: 1976 Code Sections 47-4-30 and 47-17-130

27-1023. State Meat Inspection Regulations

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21 USCA 661, Section 301) which established 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 equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 26, 2011.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on December 5, 2011 at 9:00 a.m. If no request is received by November 28, 2011, the hearing will be canceled. Written comments may be directed to Dr. Clyde B. Hoskins, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than November 28, 2011.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Meat Inspection Regulations.

Purpose: To modernize, clarify and update the existing regulations which govern the inspection of meat products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Meat Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

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

Plan for Implementation: The state meat inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

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

None.

DETERMINATION OF COSTS AND BENEFITS:

None.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

None.

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. 4204
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory Authority: 1976 Code Sections 47-4-30, 47-19-30, and 47-19-170

27-1022. State Poultry Products Inspection Regulations

Preamble:

These regulations are being promulgated to modernize, clarify and update 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. These updated regulations are necessary to comply with the federal 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 equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 26, 2011.

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Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on December 5, 2011 at 9:00 a.m. If no request is received by November 28, 2011, the hearing will be canceled. Written comments may be directed to Dr. Clyde B. Hoskins, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than November 28, 2011.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Poultry Products Inspection Regulations.

Purpose: To modernize, clarify and update the existing regulations which govern the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

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

Plan for Implementation: The state poultry inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

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

None.

DETERMINATION OF COSTS AND BENEFITS:

None.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

None.

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. 4205
DEPARTMENT OF CONSUMER AFFAIRS
 CHAPTER 28
 Statutory Authority: 1976 Code Sections 44-79-10 et seq.,
 particularly Section 44-79-90

28-100. Physical Fitness Services Center—Certificates of Authority

Preamble:

The Department proposes to amend and modify Regulation 28-100 addressing persons or organizations which, for profit, offer physical fitness services. R.28-100 was promulgated with an initial effective date of April 27, 1990 and was last amended February 23, 1994. The purposes of the amendments are to revise the title of the regulation and clarify recordkeeping requirements. Also addressed are the financial responsibility requirements for physical fitness services centers, to include bond and letter of credit amounts.

The statute, under 1976 Code Section 44-79-80, requires the Department to obtain a \$50 filing fee as well as submission of certain items by physical fitness centers before a certificate of authority may be issued. Section 44-79-80 also permits the Department to provide for financial responsibility requirements. Record keeping and reporting requirements are also addressed.

Section 44-79-90 allows the Department to promulgate regulations necessary to effectuate the purposes of the Chapter.

The proposed regulation will require legislative review.

Notice of Drafting for the proposed regulation was published in the *State Register* on August 26, 2011. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

- 28-100 Added “and Financial Responsibility” to the title of R.28-100.
- 28-100(A) Definitions – added “the Act” as abbreviated reference for South Carolina Physical Fitness Services Act.
- 28-100(B) Added “and Financial Responsibility” to heading.
- 28-100(B)(1) Added language regarding the \$50 filing fee that must be submitted with initial applications.
- 28-100(B)(2) Revised language to clarify the renewal period and renewal process.
- 28-100(B)(3) No changes.

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- 28-100(B)(4) Re-numbered subsections for financial responsibility and revised value schedule for bond structure based on total number of members in order to correspond with statutory amount.
- 28-100(B)(5) Added “the Act” as abbreviated reference.
- 28-100(B)(6) Added new sub-section to clarify reporting requirements upon a center’s substantial change in financial status.
- 28-100(C)(1) Added “the Act” as abbreviated reference.
- 28-100(C)(2) No changes.
- 28-100(C)(3) No changes.
- 28-100(C)(4) Added new sub-section to clarify requirements for submitting annual report.
- 28-100(D) Re-numbered and added new language to clarify requirements for contracts with automatic renewal options.
- 28-100(E) No changes.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit comments to Martha S. Phillips, Staff Attorney, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250-5757, by November 30, 2011. Should a public hearing be requested, the hearing will be held at the Department on December 7, 2011 at 2:00 p.m. in the Conference Room, 2221 Devine Street, Suite 200, Columbia, S.C. 29205.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0. Certificate fees are intended to offset administrative costs to the State and are based on experience with similar industries.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Physical Fitness Services Center – Certificates of Authority.

Purpose: R.28-100 was promulgated with an initial effective date of April 27, 1990 and was last amended February 23, 1994. The purposes of the amendment are to revise the title of the regulation and address the financial responsibility requirements for physical fitness centers, to include bond and letter of credit amounts. Clarification of physical fitness recordkeeping and financial reporting requirements are also provided.

Legal Authority: 1976 Code Sections 44-79-10 et seq., particularly Section 44-79-90.

Plan for Implementation: Administrative.

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

The regulation is intended to clarify the application requirements and financial responsibility requirements for physical fitness centers offering physical fitness services. The proposed regulation directly address issues that have come to the attention of the Department staff during the time since the regulation was last amended.

Due to the poor economy, many physical fitness centers have gone out of business. The proposed regulation clarifies the parameters of financial responsibility and reporting requirements. Physical fitness service centers will be required to report specific events that constitute a substantial change of financial status within ten days of the occurrence as well as having to submit an annual report. The intent in clarifying financial responsibility requirements and recordkeeping activities is to protect the consumer.

There is also much confusion in the physical fitness industry regarding some of the allowable contract provisions provided for in S.C. Code Ann. Section 44-79-60, particularly regarding automatic renewal options. The proposed regulation clarifies the requirements for contract provisions.

DETERMINATION OF COSTS AND BENEFITS:

Certificate fees assessed through S.C. Code Section 44-79-80 et seq. are at levels intended to offset the costs of administering the regulation.

UNCERTAINTIES OF ESTIMATES:

Estimates are based on agency experience in regulating the industry. Should the number of filings vary greatly, estimates could change. However, since costs to the State should be covered by the certificate fees set in S.C. Code Sections 44-79-80 et seq., impact should be minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The South Carolina Physical Fitness Services Act specifically provides for the Department to set the \$50 fee for certificates. The Act also permits and/or contemplates the drafting of reporting, recordkeeping and financial responsibility requirements. Such modifications and additions are necessary to effectuate the consumer protection purpose of the Act and to guide businesses with compliance.

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.

20 PROPOSED REGULATIONS

Document No. 4208
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-5-65 (2004 & Supp. 2010), and 59-59-10 et seq. (Supp. 2010)

43-274.1. At-Risk Students

Preamble:

The State Board of Education proposes to amend R.43-274.1, At-Risk Students, to change the South Carolina Department of Education's acronym to SCDE, change the references to the statewide student information system from SASI™ to PowerSchool™, and note the use of the Palmetto Assessment of State Standards (PASS), rather than PACT, as one of several assessments used to diagnose academic difficulties.

Notice of Drafting for the proposed amendments was published in the *State Register* on August 26, 2011.

Section-by-Section Discussion

Section II(A)(1)	Changes Palmetto Achievement Challenge Tests (PACT) test results to Palmetto Assessment of State Standards (PASS) test results
Section III	Changes SDE to SCDE
Section IV	Changes SDE to SCDE
Section IV(F)	Changes SDE to SCDE
Section V(B)	Changes SASI™ to PowerSchool™
Section VI	Changes SDE to SCDE

Notice of Public Hearing and Opportunity for Public Comment:

A hearing pursuant to South Carolina Code Ann. Section 1-23-110(A)(3), as amended, will be held December 8, 2011, at 1:00 p.m. in the Rutledge Conference Center, Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201. Persons desiring to make oral comments 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 amendments or any other information, and any requests for a public hearing, should be submitted to the Division of Accountability, Attn: John Lane, Rutledge Building, Room B-14, 1429 Senate Street, Columbia, South Carolina 29201, or jllane@ed.sc.gov on or before 5:00 p.m. on November 28, 2011. Copies of the text of the proposed amendments for public notice and comment are available at <http://www.ed.sc.gov/agency/stateboard>.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Board of Education Regulation 43-274.1, At-Risk Students.

Purpose: Changes to R.43-274.1 are proposed to update acronyms and the names of the state's standardized assessment and student information system.

Legal Authority: 1976 Code Sections 59-5-60 (2004), 59-5-65 (2004 & Supp. 2010) and 59-59-10 et seq. (Supp. 2010).

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

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

The changes reflect the use of the current state assessment and student information system.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

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

Statement of Rationale:

Because school districts are encouraged to carefully review a variety of assessments in diagnosing students' academic difficulties, it is important that the current state assessment be identified in the regulation. Furthermore, because data are collected via the statewide student information system, it is important that the current system be correctly identified.

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.

22 PROPOSED REGULATIONS

Document No. 4206
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2010), and 20 U.S.C. 6301 et seq. (2001)

43-53. Credential Classification

Preamble:

This regulation needs to be amended to create a new advanced certification for educators employed in non-regulated school settings. The Notice of Drafting was published in the *State Register* on July 22, 2011.

Section-by-Section Discussion

- Section I.A. Reference to the provisional contract has been deleted since this contract level is no longer issued.
- Section I.B.1 The term “formal evaluation” has been further defined to include teaching performance and effectiveness.
- Section I.C. The term “formal evaluation” has been further defined to include teaching performance and effectiveness.
- Section I.F. This section has been added to create a new type of certificate, the Limited Professional Certificate, that provides an advanced, renewable certificate for eligible educators employed in non-regulated school settings.
- Section I.G. This section was formerly Section F in the regulation. Only the placement has changed; no other modifications have been made to this section.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 8, 2011, at 1:00 p.m. in the Rutledge Conference Center, Rutledge Building, 1429 Senate Street, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Mark A. Bounds, Deputy Superintendent, Division of School Effectiveness, 3700 Forest Drive, Suite 300, Columbia, South Carolina 29204 or e-mail mbounds@leaders.ed.sc.gov. Comments submitted by November 28, 2011, at 5:00 p.m., shall be submitted to the Board.

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: R.43-53, Credential Classification.

Purpose: Regulation 43-53, Credential Classification, is being amended.

Legal Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2010), and 20 U.S.C. 6301 et seq. (2001).

Plan for Implementation: The proposed amendments will be posted on the South Carolina Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the State Register.

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

The amendments to this regulation are needed to create a new optional endorsement and add-on certification in Teaching Children of Poverty.

DETERMINATION OF COSTS AND BENEFITS:

None.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation does not have any effect on the environment or public health.

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

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

Statement of Rationale:

The amendments to this regulation are needed to provide current language regarding contract levels and educator evaluations and to create a new type of certificate, the Limited Professional Certificate, that provides an advanced, renewable certificate for eligible educators employed in non-regulated school settings.

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.

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Document No. 4209
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-40-10 et seq. (2004 and Supp. 2010); Public Law 111–117, December 16, 2001, Consolidated Appropriations Act, 2010

43-601. Procedures and Standards for Review of Charter School Applications.

Preamble:

This regulation sets forth the standards for the review of charter school applications. To qualify for federal charter school funds, certain assurances need to be met. One of those assurances is that student academic achievement for all groups of students must be the primary factor in when determining to renew or revoke a school's charter. We are proposing to amend R.43-601 to require that for charter schools that receive federal charter school grant funds, student academic performance be the most important factor in the renewal or revocation of a charter.

Since this is a requirement of federal law, this amendment will not require the approval of the General Assembly.

Notice of Drafting for the proposed amendments was published in the *State Register* on August 26, 2011.

Section-by-Section Discussion

Section VII. Add new Section VII to clarify requirements related to audits and student Academic performance that apply to charter schools that receive federal charter school funding.

Section VIII. Old Section VII is now Section VIII.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at the public hearing to be conducted by the State Board of Education at its meeting on December 8, 2011, at 1:00 pm in the Rutledge Conference Center; 1429 Senate Street, Columbia. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Shelly Bezanson Kelly, General Counsel, S.C. Department of Education, 1429 Senate Street, Suite 1015, Columbia, South Carolina 29201, or email skelly@ed.sc.gov. Comments submitted by November 28, 2011, at 5:00 p.m. shall be submitted to the Board.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

The amendments to this regulation are needed to ensure that charter schools are in compliance with federal requirements related to the federal charter schools grant program.

DESCRIPTION OF REGULATION: 43-601. Procedures and Standards for Review of Charter School Applications.

Purpose: Regulation 43-601 is being amended to clarify requirements related to the federal charter schools grant program.

Legal Authority: 1976 Code Sections 59-5-60 (2004) and 59-40-10 et seq. (2004 and Supp. 2010); Public Law 111-117, December 16, 2001, Consolidated Appropriations Act, 2010.

Plan for implementation: The proposed amendments would be incorporated within Regulation 43-601 upon publication in the State Register as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented.

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

The amendment is needed ensure that charter schools are in compliance with federal requirements related to the federal charter schools grant program.

DETERMINATION OF THE COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation does not have any effect on the environment or public health.

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

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

Statement of Rationale:

The purpose of the proposed amendments is to add language to clarify certain requirements related to charter schools that receive the federal charter schools grant funds and to ensure that charter schools are in compliance with federal requirements related to the federal charter schools grant program.

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.

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Document No. 4207
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2010), and 20 U.S.C. 6301 et seq. (2001)

43-62. Requirements for Additional Areas of Certification

Preamble:

This regulation needs to be amended to create a new optional endorsement and add-on certification in Teaching Children of Poverty. The Notice of Drafting was published in the *State Register* on July 22, 2011.

Section-by-Section Discussion

Section V. Alpha listing of certification areas for Other Types of Specialized Certification has been updated to accommodate addition of Teaching Children of Poverty.

Section V.E. New requirements for Teaching Children of Poverty have been included.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on December 8, 2011, at 1:00 p.m. in the Rutledge Conference Center, Rutledge Building, 1429 Senate Street, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Mark A. Bounds, Deputy Superintendent, Division of School Effectiveness, 3700 Forest Drive, Suite 300, Columbia, South Carolina 29204 or e-mail mbounds@leaders.ed.sc.gov. Comments submitted by November 28, 2011, at 5:00 p.m., shall be submitted to the Board.

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: R.43-62, Requirements for Additional Areas of Certification.

Purpose: Regulation 43-62, Requirements for Additional Areas of Certification, is being amended.

Legal Authority: 1976 Code Sections 59-5-60(1) (2004), 59-25-110 (2004), 59-26-10 et seq. (2004 and Supp. 2010), and 20 U.S.C. 6301 et seq. (2001).

Plan for Implementation: The proposed amendments will be posted on the South Carolina Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

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

The amendments to this regulation are needed to create a new optional endorsement and add-on certification in Teaching Children of Poverty.

DETERMINATION OF COSTS AND BENEFITS:

None.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation does not have any effect on the environment or public health.

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

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

Statement of Rationale:

The amendments to this regulation are needed to create a new optional endorsement add-on certification in Teaching Children of Poverty.

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. 4210

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-1-140 (2002), 44-33-30 (2011), 44-37-40 (2002), 44-37-50 (Supp. 2010), and 44-89-10 et seq. (2002)

61-24. Licensed Midwives

Preamble:

The Department proposes to amend the regulation to include, but not limited to, (1) utilization of certification credentials from a nationally recognized credentialing organization approved by the Department to satisfy certain requirements for licensing, (2) to allow for reciprocity of currently credentialed midwives, and to (3) revise classification of violations. The Department seeks to address the (4) requirements for licensure, (5) educational requirements, (6) revocation criteria, the (7) provision of intrapartum care, and (8) record keeping and reporting. Department policy concerning (9) previous Cesarean section will be added to prohibitions in the practice of midwifery. A (10) requirement to offer communicable disease screening to the mother will be added to prenatal care. (11) Requirements to instruct the parent(s) on the importance of hearing screens for the infant and resources to assist them to have the screen performed, and a (12) requirement to make a shaken baby and

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cardiopulmonary resuscitation video available to the parent(s) will be added to care of the newborn. (13) The Department intends to add language to incorporate provider wide exceptions for tuberculosis screening and (14) reportable accidents/incidents. (15) The Department is also proposing general and stylistic revisions to improve the overall quality of the regulation.

A Notice of Drafting for this proposed revision was published in the *State Register* on July 22, 2011. Legislative review will be required.

Section-by-Section Discussion of Proposed Revisions:

(1) Utilization of certification credentials from a nationally recognized credentialing organization approved by the Department to satisfy certain requirements for licensing:

New Section 101.S: Added and defines “North American Registry of Midwives”.

Renamed to new Section 103, formerly old Section C is renamed and classified.

Renamed to Section 103.A; formerly Section C. was revised to delete language “examination only”; there is no reciprocity with other jurisdictions. Language added addresses midwives that are certified by NARM or other Department approved organizations requesting initial licensure will receive a license, provided they produce evidence of certification by NARM or other Department approved organizations and have met other requirements established by the Department (I) At 103.A.1 this subsection was added to clarify that currently licensed midwives are not required to obtain certification to maintain a license. Also language here clarifies that a midwife that is delinquent in submitting license renewal more than 30 days must obtain certification by NARM or other Department approved organization in order to renew the license. At 103.A.2, this subsection was added to clarify that individuals who are not CPM certified do not have CPM privileges.

(2) Allow for reciprocity of currently credentialed midwives:

Renamed New Section 103.A, formerly Section C: Deleted the phrase “there is no reciprocity.”

(3) Revise classifications of violations:

Renamed Section 103 title, formerly section C, was revised to add a Class I violation.

New Section 201, old Section D was revised to add a Class I violation.

Renamed to Section 201.A, formerly Section D, was revised to clarify reference to subsections that were renumbered. Violation classification was moved to the heading.

Renamed to Section 302.B and C. These subsections were revised to classify violations to Class II.

Renamed to Section 306.A, formerly old Section L, This section was revised to classify violations to Class I.

Renamed to Section 307, formerly old Section M: This section was revised to classify violations to Class I.

Renamed to Section 308, formerly old Section N: This section was revised to classify violations to Class I.

Renamed to Subsections 401.A.1.b.-g., formerly old subsections P.1.a.(2)-(7): Revised to classify violations to Class II.

Renamed to Section 401.A.1.i-l, formerly old subsections P.1.a.(9)-(12): Revised to classify violations to Class I.

Renamed to Section 401.A.2.b.-g., formerly old subsections P.1.b.(2)-(7): Revised to classify violations to Class I.

Renamed to Section 401.A.2.h, formerly old subsection P.1.b.(8): Revised to classify violations to Class II.

(4) Address requirements for licensure of midwives:

Renamed to New Section 101.A, formerly Section A.1: Revised to include “Certified Professional Midwife”.

Renamed to New Section 101.B, formerly Section A.2: Revised to include “Certified Professional Midwife”.

Renamed to New Subsection 101H, formerly Section A.6: Revised to include “NARM and/or” in continuing education.

New Section 101.I: Added to include definition for “Certified Professional Midwife”.

New Section 101.L: Added to include definition for Latent TB Infection (LTBI)”.

Renamed to New Section 101.P, formerly Section A.1: Revised to include “Certified Professional Midwife”.

New Section 101.S: Added to define “North American Registry of Midwives”.

Renamed to New Section 102.D, formerly Section B.4: Revised to include “and shall be used exclusively in support of activities pursuant to this regulation” and deletes “The examination fee is \$200.00” and “of Health and Environmental Control for deposit into the State Treasury”.

Renamed to new Section 103, formerly old Section C is renamed and classified.

Renamed to Section 103.A; formerly Section C. was revised to delete language “examination only”; there is no reciprocity with other jurisdictions. Language added addresses midwives that are certified by NARM or other Department approved organizations requesting initial licensure will receive a license, provided they produce evidence of certification by NARM or other Department approved organizations and have met other requirements established by the Department (I) At 103.A.1 this subsection was added to clarify that currently licensed midwives are not required to obtain certification to maintain a license. Also language here clarifies that a midwife that is delinquent in submitting a license renewal more than 30 days must obtain certification by NARM or other Department approved organization in order to renew the license. At 103.A.2, this subsection was added to clarify that individuals who are not CPM certified do not have CPM privileges.

Renamed to new section 103.B, formerly old Section C.1: This section was revised to add “certified professional midwife”, a provision for three renewals for apprentice licenses, and also “on a case by case basis”.

New Section 103.B.5: Added to provide a minimum education level a candidate must possess to be licensed.

Renamed to Section 103.C, formerly Section C.2: Revised to clarify that this subsection refers to initial midwife licensing only.

New section 103.C.2: Added to require candidates to possess evidence of certification.

Renamed to Section 103.C.3, formerly Section C.2.b: Revised to add “to be evaluated by NARM or other organization approved by the Department” and deletes, “(includes self-study)” as well as reference to a deleted section.

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Renamed to Section 103.C.4, formerly Section C.2.c: Revised to add “certified professional midwife” and “to be submitted to the certifying agency” and deletes, “must be submitted with application for licensure”.

Renamed to Section 103.C.5, formerly Section C.2.d: Revised to delete “certification by”, “in cardiopulmonary resuscitation of the adult” and “newborn within the previous year” and adds “Evidence of valid Healthcare Provider cardiopulmonary resuscitation (CPR)” and “and Neonatal Resuscitation Program (NRP) certificate from the American Heart Association and American Academy of Pediatrics”.

New Section 103.C.6: Added to require evidence of tuberculosis status.

New Section 103.C.7: Added requirement for a blank informed consent form.

Old Subsection C.2.e: This subsection is deleted.

Old Subsection C.2.f: This subsection is deleted.

Old Subsection C.3: This subsection is deleted.

Old Subsection C.4: This subsection is deleted.

Renamed to Section 103.E, formerly Section C.6: Revised to clarify license renewal period.

Renamed to Section 103.E.1, formerly old Section C.6.a; Revised to add “on a form prescribed and furnished by the Department”.

Renamed to Section 103.E.2, formerly Section C.6.b: Revised to require evidence of certification and deletes continuing education.

Renamed to Section 103.E.3, formerly Section C.6.c: Revised to add a requirement for evidence of tuberculosis status and deletes evidence of certification in cardiopulmonary resuscitation.

Old Subsection C.6.d: This subsection is deleted.

New Section 103.E.4: Added to clarify requirements for currently licensed, but not certified midwives seeking license renewal.

Old Subsection C.7: This subsection is deleted.

New Section 103.F: Added to clarify the procedure for tuberculosis testing and risk assessment

Renamed to Section 103.G, formerly Section C.8: Revised to clarify that midwives who are more than 30 days delinquent in submitting license renewal must obtain certification from NARM or other Department approved organization in order to renew license.

Old Section F: This section was deleted. The Department will no longer administer the examination. The examination will be administered by NARM or other organizations authorized by the Department.

(5) Address educational requirements for midwives:

New Section 104, Educational Requirements (I), was added and classified.

Old Section E, Educational Requirements, This section is deleted and incorporated into New Section 104.

(6) Address licensure revocation criteria:

New Section 102.K.11 added revocation of certification as a cause for revocation of license.

New Section 102.L, formerly old Section B.12; Revised section to provide current language for appeals.

(7) Address the provision of intrapartum care:

Renamed to Section 302, formerly Section H, Intrapartum Care.

Renamed to New Section 302.E.1, formerly Section H.5.a: Revised to clarify specific instances where a midwife may administer medications to mothers.

Renamed to New Section 302.E.2, formerly Section H.5.b: Revised to clarify specific instances when a midwife may administer medications to newborns.

Renamed subsection 302.B and C, formerly section H.2 and H.3, were revised to classify violations as Class II.

Old Subsection H.4, operative procedures, was deleted.

Old Subsection H.5.a-c, These subsections were deleted and addressed in new Sections 302.E.1 and 302.E.2.

New Section 302.D, Skills, was added to define procedures allowed to be performed by certified professional midwives.

(8) Address recordkeeping and reporting requirements:

Renamed to Section 400, Recordkeeping and Reporting Requirements, formerly Section P: Codification numerical change.

Renamed to Sections 401.A.1.b.-g, formerly subsections P.1.a.(2)-(7) were revised to classify violations to Class II.

New Section 401.A.1.h: Added to require documentation that the mother had two visits with a physician, community health center or health department, to include an assessment from a healthcare provider, that the pregnancy is low risk.

Renamed to Subsections 401.A.1.I-I, formerly subsections P.1.a.(9)-(12) were revised to classify violations to Class II.

New Section 401.A.1.m; Added to require documentation that the parents were notified of the importance of the infant needing a hearing screening.

New Section 401.A.1.n: Added to require documentation that the shaken infant video and infant cardiopulmonary resuscitation information were provided to parents and caregivers of the newborn.

New Section 401.A.1.o: Added to document that communicable disease screening and laboratory testing was offered to the mother.

Renamed to New Subsection 401.A.2.b-g, formerly P.1.b.(2)-(7): Revised to classify violations to Class I.

Renamed to New Subsection 401.A.2.h, formerly P.1.b.(8): Revised to violations to Class II.

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Renamed to New Section 401.D.2, formerly Section P.4.b: Revised to clarify timeframe for filing of incident reports and to add minimum information which reports must contain.

Renamed to New Section 401.D.4, formerly Section P.4.d: Revised to require the submission of maternal and infant death reports to the Division of Health Licensing in addition to Vital Records and Public Health Statistics.

(9) Add previous Cesarean section to the prohibitions in the practice of midwifery:

New Section 202: Added to address prohibitions in the practice of midwifery. Added the Department's policy on the prohibition of midwives providing care for or assisting in the delivery of any patient who has had a previous Cesarean section.

Old Section O: This section was deleted. Material was incorporated into Section 202.

(10) Add a requirement to offer communicable disease screening to the mother in prenatal care:

New Section 401.A.1.o: Added to document that communicable disease screening and laboratory testing was offered to the mother.

(11) Add a requirement to instruct the parent(s) on the importance of hearing screen for the infant and resources to assist them to have the screen performed:

New Section 401.A.1.m; Added to document that the parents were notified of the importance of the infant needing a hearing screening and to provide information to assist them in having the hearing screen performed.

(12) Add a requirement to make a shaken baby and cardiopulmonary resuscitation video available for the parent(s) in care of the newborn:

Renamed to Section 304.B, formerly old Section J.2; Revised to refer to state statute for acceptable prophylactic agents to prevent infant blindness.

New Section 304.G; Added a requirement for midwives to make available to the parent(s) and care givers of the newborn, a shaken infant video and infant CPR information.

(13) Add language to incorporate a provider-wide exception for tuberculosis screening:

New Section 101.C: Added and defines "Blood Assay for *Mycobacterium tuberculosis* (BAMT)".

New Section 101.G: Added and defines "Contact Investigation".

New Section 101.L: Added and defines "Latent TB Infection (LTBI)".

New Section 103.F: Added to clarify the procedure for tuberculosis testing and risk assessment.

(14) Add language to incorporate provider wide exceptions for reportable accidents/incidents:

Renamed to New Section 401.D.2, formerly Section P.4.b: Revised to clarify when incident reports must be filed and provides a time frame for filing. Revised to add minimum information required on report.

(15) General and Stylistic changes to improve the overall quality of the regulation:

Added statutory authority for this regulation under the title.

A table of contents has been added for this regulation.

This regulation is being revised in entirety from an alphabetical codification to a numerical codification. Section titles will be added as applicable. This regulation will be replaced in entirety.

New Section 100 – Added as a title for the section.

Renamed to New Section 101.D, formerly Section A.3: Revised to include “this state” and “South Carolina” and deletes “State” and “for South Carolina”.

Renamed to New Section 101.K, formerly Section A.8: Revised to include “Certified Nurse Midwife” and deletes “or”.

Renamed to New Section 101.R, formerly Section A.14: Stylistically revised to spell out “South Carolina” and deletes “S.C. State”.

Renamed to New Section 102.B.2, formerly old Section B.2.b; Revised to correct a grammatical error.

Renamed to New Section 102.C, formerly old Section B.3; Revised to correct a grammatical error.

New Section 200 – Added as a title for the section.

Renamed to New Section 201.A, formerly Section D: Revised to clarify reference to subsections that were renumbered and to correct a grammatical error. Violation classification was moved to the heading.

New Section 300 – Added as a title for the section.

Renamed to New Section 301, formerly Section G: Change outline codification. No text changes.

Renamed to New Section 301.E, formerly Section G.5: Revised to clarify that a midwife is licensed to only provide midwifery services, not physician or nursing services and requires the midwife to notify the Department that s/he notified the patient of same.

Renamed to New Section 303, formerly Section I: Change outline codification. No text changes.

Renamed to New Section 304, formerly Section J: Change outline codification. No text changes.

Renamed to New Section 305, formerly Section K: Change outline codification. No text changes.

Renamed to New Section 306, formerly Section L: Revised to correct a typographical error. Changed “OR CONSULTATION” to “or Consultation”.

Renamed to New Section 306.A.29, formerly Section L.29” Revised to correct a typographical error.

Renamed to New Section 306.A.47, formerly Section L.47: Revised to add “3rd and 4th” degree for clarification.

Renamed to New Section 306.A.50, formerly Section L.50: Revised to correct a typographical error.

Renamed to New Section 307.A.20, formerly Section M.20: Revised to correct typographical error.

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Renamed to New Section 308.A, formerly Section N: Revised to move the violation classification to the heading.

New Section 400 -added as a title for the regulation.

Renamed to New Section 401, formerly old Section P; Revised to correct a grammatical error.

Renamed to New Section 401.D.1, formerly old Section P.4.a; Revised to correct a grammatical error.

New Section 500 – Added as a title for the section.

Renamed to New Section 503, formerly Section Q.3: Revised to add “Compliance” as a title for the subsection.

New Section 600 - Added as a title for the section and to provide for severability. In the event one part of the regulation is ruled invalid, the other parts would remain in effect.

Renamed to New Section 700, formerly Section R: Revised to correct a typographical error.

Notice of Staff Informational Forum and Public Comment Period:

The Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum November 28, 2011, at 1:30 p.m. McNeely Conference room Heritage Building 1777 St. Julian Place, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify any issues, and receive oral or written public comments from interested persons on the proposed amendment of R.61-24.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations during a public comment period by writing to Gwendolyn Thompson, Director, Division of Health Licensing, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 4:00 p.m. on November 28, 2011, the close of the public comment period.

Copies of the proposed regulation revision for public notice and comment may be obtained by contacting Michell Hatcher at the above address. A copy may also be obtained on the Department’s Regulatory Information Internet Site at <http://www.scdhec.gov/administration/regs/> in its *DHEC Regulation Development Update*. To access this document, click on the Health Licensing category, then scan down for this proposed amendment.

Comments received at the forum or during the write-in public comment period above-noticed shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed revision of R.61-24 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting January 12, 2012. The public hearing is to be held in Room 3420 (Board Room) of the Commissioner’s Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board’s agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments

at the hearing are asked to limit their statements to five minutes or less, and, as a courtesy, are asked to provide written copies of their presentation for the record.

Preliminary Fiscal Impact Statement:

Costs to the Department:

Items (1), (2), (4), (6). Processing applications for the midwife licensing program requires a disproportionate amount of resources compared to the size of the regulated community. For each midwife candidate that seeks licensing in South Carolina, considerable effort is made to evaluate the educational program, completion of apprenticeship, verification of professional recommendations, and verification of cardiopulmonary resuscitation certification. Records are maintained for each examination cycle. Expenditures for validation of prerequisites, administration of the oral examination, and administrative requirements far exceed the \$50.00 oral examination fee the Department receives for each oral examination administered.

Items (3), (5), (7)-(15). These items will have no impact on the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to the S.C. Code Ann. Subsections 1-23-115(C)(1)-(3) and (9)-(11) (2005).

DESCRIPTION OF REGULATION: Regulation 61-24, Licensed Midwives.

Purpose: The Department proposes to amend the regulation to include, but not limited to, (1) utilization of certification credentials from a nationally recognized credentialing organization approved by the Department to satisfy certain requirements for licensing, (2) to allow for reciprocity of currently credentialed midwives, and to (3) revise classification of violations. The Department seeks to address the (4) requirements for licensure, (5) educational requirements, (6) revocation criteria, the (7) provision of intrapartum care, and (8) record keeping and reporting. Department policy concerning (9) previous Cesarean section will be added to prohibitions in the practice of midwifery. A (10) requirement to offer communicable disease screening to the mother will be added to prenatal care. (11) Requirements to instruct the parent(s) on the importance of hearing screens for the infant and resources to assist them to have the screen performed, and a (12) requirement to make a shaken baby and cardiopulmonary resuscitation video available to the parent(s) will be added to care of the newborn. (13) The Department intends to add language to incorporate provider wide exceptions for tuberculosis screening and (14) reportable accidents/incidents. (15) The Department is also proposing general and stylistic revisions to improve the overall quality of the regulation.

Legal Authority: S.C. Code Ann. Sections 40-33-30 (2011), 44-1-140 (2002), 44-37-40 (2002), 44-37-50 (Supp. 2010), and 44-89-10 et seq. (2002).

Plan for Implementation: The proposed revision will take effect upon publication in the *State Register* following approval by the Board and the S.C. General Assembly. The proposed revision will be implemented by providing the regulated community with copies of the regulation, and enforced through inspections by the Department.

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

The regulation was last amended in July 1993 and included a comprehensive revision. Since that date, numerous changes in the practice of midwifery to improve standards of care have been adopted by the regulated community. The regulation must be updated to reflect those improvements.

Standards have been established for the practice of midwifery and have been accepted nationwide. The North American Registry of Midwives (NARM) has established minimum standards for evaluating candidates, such as educational requirements, skills testing and written examination. Candidates who have met the credentialing standards earn the designation of Certified Professional Midwife (CPM).

The process used to create and administer the Certified Professional Midwife examination has been evaluated and accredited by the National Commission for Certifying Agencies, the same organization that credentials Certified Nurse Midwives and many other advanced practice nursing credentials.

The process used by NARM to evaluate the midwife candidates' education and skills verification is more comprehensive than the oral examination currently in use by the Department.

Adoption of nationally recognized standards will provide reciprocity for CPMs seeking licensure in South Carolina.

The Department seeks to include certification by NARM or other organizations approved by the Department as a requirement for licensure and to allow for reciprocity for individuals certified by those organizations.

The Department seeks to incorporate changes to policy on educational requirements, revocation criteria, provision of intrapartum care, record keeping and incident reporting, tuberculosis testing, communicable disease screening for the mother, hearing screening for infants, providing a shaken baby video and cardiopulmonary resuscitation information, incorporate prohibition against midwives providing care for or assisting in the delivery of any patient who has had a previous Cesarean section.

Codification changes were made for consistency with other regulations.

Stylistic revisions were made to improve the overall quality and readability of the regulation.

DETERMINATION OF COSTS AND BENEFITS:

(1) Costs to the Department:

See Preliminary Fiscal Impact Statement above.

(2) Costs to the Regulated Community:

Most midwife candidates will incur a onetime cost of \$700.00 paid to the credentialing organization for an educational and skills evaluation prior to taking the written examination for certification. Midwife candidates that attend a midwifery school accredited by the Midwifery Education Accreditation Council are exempt from the education and skills evaluation. Thereafter, certification is maintained through satisfaction of credentialing requirements including continuing education, peer review, cardiopulmonary resuscitation, as well as a renewal fee of \$150.00, paid every 36 months to the credentialing organization.

The Department does not anticipate additional costs resulting from the other proposals.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation revision will promote public health by upgrading standards for regulating midwives and midwife apprentices. In addition, the revision would ensure the validity of knowledge and skills of the licensed midwife.

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

There will be an adverse effect on the public health if the proposed regulatory revisions are not implemented since it will permit midwives to be licensed without requiring verification of the most current standards of practice. The new midwives would also not have had comprehensive skills verification.

In addition, if the regulation revision is not implemented, mothers desiring home births would have to wait for certain types of emergency care to be provided by Emergency Medical Services personnel or emergency room staff that could otherwise be provided by a certified professional midwife.

Licensing of Certified Professional Midwives moving to South Carolina would be unnecessarily delayed.

Mothers giving birth in out-of-hospital settings would not be informed of, and have available, opportunities for communicable disease screening, infant hearing screening, cardiopulmonary resuscitation and shaken baby information provided, as are mothers giving birth in hospital settings.

Misunderstandings regarding the role of the midwife in cases of vaginal births after Cesarean section would continue.

Documentation of the mother being assessed by a health care provider as having a low risk pregnancy would not be readily available to the Department.

The regulated community would need to access other references to obtain the Department's most current policies on tuberculosis screening and reportable accidents and incidents. This may possibly delay appropriate tuberculosis screening, thus exposing a pregnant mother unnecessarily to a person with active tuberculosis. Investigations of accident/incidents may be delayed or not conducted.

Violations would not be accorded the proper severity.

The loss of certification would not initiate the revocation of a license.

Statement of Rationale:

Department staff determined during its review of R.61-24 that it was appropriate to revise the regulation. R.61-24 has not been amended since it was last revised in 1993. Since that time, the midwife community has developed a nationally recognized, competency based credentialing process. Standards for education, preceptorship and skills verification have been established and validated. Currently 50% of Licensed Midwives in South Carolina are credentialed as Certified Professional Midwives through NARM. The Department adopted NARM written examination as the written examination required for midwife licensing in 2000. The process used by NARM to evaluate the midwife candidates' education and skills verification is more comprehensive than the oral examination currently in use by the Department.

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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. 4212

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

61-68. Water Classifications and Standards

61-69. Classified Waters

Preamble:

The Department proposes to amend R.61-68 to strengthen and improve the existing regulation and make appropriate revisions of the State's water quality standards in accordance with Section 303(c)(2)(B) of the Federal Clean Water Act (CWA). Section 303(c)(2)(B) requires that South Carolina's water quality standards be reviewed and revised, where necessary, to comply with Federal regulatory revisions and recommendations. The Department proposes revisions to replace fecal coliform (FC) as a bacterial indicator for recreational uses in freshwaters of the State. The Department is also revising specific language regarding how the bacterial indicator species will be used for implementation activities of the Department in all waters of the State and revisions associated with corrections or clarifications for language in the current regulation. The Department proposes to amend R.61-69 for consistency with proposed language changes in R.61-68, to correct errors that have occurred over time, and to make other changes necessary to improve the overall quality of the regulation. See Discussion below and also the Statement of Need and Reasonableness and Statement of Rationale herein.

A first Notice of Drafting was published in the State Register on April 22, 2011, and a second Notice of Drafting which clarified an issue was published in the State Register on July 22, 2011. Both notices were placed on the Department's water quality standards webpage and circulated to stakeholders and other interested parties. These Notices of Drafting were also published on the Department's Regulatory Page in its DHEC Regulation Development Update. Comments were received and used in the drafting of the proposed regulation.

Section-by-Section Discussion of Proposed Changes

R.61-68, Water Classifications and Standards

R.61-68.B.28. – Added new definition for daily maximum.

R.61-68.B.41. – Added new definition for monthly average.

Note: State Register Document 4161, an amendment of R.61-68, is currently pending at the S.C. Legislature with an automatic approval date of January 24, 2012. The Department proposes to amend specific sections in Document 4161. These proposed changes are noted where applicable in the discussion below and in the text of the regulations herein, along with a link to the State Register website where the text of Document 4161 may be accessed for viewing.

R.61-68.E.14.c(8) – The proposed language amends this section of Document No. 4161 at <http://www.statehouse.gov/regnsrch/4161.docx> and describes how bacterial indicators will be used in deriving permit limitations and puts text in a table format.

R.61-68.E.14.c(9) – The proposed language amends this section of Document No. 4161 at <http://www.statehouse.gov/regs/4161.docx> and describes how bacterial indicators will be used in deriving permit limitations and puts text in a table format.

R.61-68.E.14.c(10) – The existing text of this section was deleted and proposed language describes how bacterial indicators will be used in deriving permit limitations and puts text in a table format.

R.61-68.E.14.c(11) – This subsection item was added and the proposed language describes how bacterial indicators will be used in deriving permit limitations and puts text in a table format.

R.61-68.E.14.c(12) – This subsection item was added and the proposed language describes how bacterial indicators will be used in permit limitations and includes compliance language.

R.61-68.E.14.c(13) – This subsection item was added and the proposed language describes how bacterial indicators will be used in permit limitations and includes compliance language.

R.61-68.E.14.c(14) – This subsection item was added and the proposed language describes how Total Maximum Daily Load (TMDL) targets developed for fecal coliform will be revised for E.coli.

R.61-68.E.14.c(15) – This subsection item was added and text from previous R.61-68.E.14.c(10) was revised for consistency and renumbered.

R.61-68.E.14.d(4) – The proposed language includes a statement that a percentage of samples collected for the State shellfish program will be used as stipulated in R.61-47, Shellfish regulation.

R.61-68.E.14.d(6) – The proposed language includes using E.coli as the bacterial indicator in freshwaters when the assessment of Section 303(d) listing determinations are made by the Department and that the allowable percentage will be used in the determination and amends current language for consistency throughout the regulation.

R.61-68.G.4. – The proposed language adds E.coli as the indicator species and puts text in a table format.

R.61-68.G.5. – The proposed language amends current language for consistency throughout the regulation and put text in a table format.

R.61-68.G.6. – The proposed language adds E.coli as the indicator species and puts text in a table format.

R.61-68.G.7. – The proposed amendment puts text in a table format.

R.61-68.G.9. – The proposed language adds E.coli as the indicator species and puts text in a table format.

R.61-68.G.10. – The proposed language adds E.coli as the indicator species, adds language for consistency throughout the regulation, and puts text in a table format.

R.61-68.G.11. – The proposed language removes percentage allowance from this section of the regulation and adds language for consistency throughout the regulation, and puts text in a table format.

R.61-68.G.12. – The proposed language amends portions of the language contained in this section of Document No. 4161 at <http://www.statehouse.gov/regs/4161.docx>, with proposed language that removes fecal coliform in Class SA waters, removes percentage allowance, adds and amends the language for consistency throughout the regulation, and puts text in a table format.

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R.61-68.G.13. – The proposed language amends portions of the language contained in this section of Document No. 4161 at <http://www.statehouse.gov/reg/4161.docx> with proposed language that removes fecal coliform in Class SB waters, removes percentage allowance, adds and amends the language for consistency throughout the regulation, and puts text in a table format.

R.61-68.H.8. – The proposed amendment puts text in a table format.

R.61-68.H.9. – The proposed amendment puts text in a table format.

R.61-68.H.10 – The proposed amendment puts text in a table format.

R.61-69, Classified Waters

Note: Due to numerous changes, the regulation will be replaced in its entirety. Specific revisions are listed below:

Table of Contents. – The proposed language adds a table of contents for codification and consistency.

R.61-69.A. – The proposed language amends this section for consistency.

R.61-69.B. – The proposed language amends this section for consistency with current language and also proposed amended language in the same text in R.61-68.

R.61-69.C. – The proposed language amends by combining two sections, C and D, and adding a caption to codify for consistency.

R.61-69.D. – The proposed language amends by recodifying E to D and by adding a caption to codify for consistency.

R.61-69.E. – The proposed language codifies, adds a listing, amends language for clarity, and puts text in a table format.

R.61-69.F. – The proposed language adds a caption to codify for consistency, replaces an asterisk, and adds language to include the previous classification of Outstanding Resource Waters and Outstanding National Resource Waters

R.61-69, G. – The proposed language codifies and puts text in a table format.

R.61-69.H. – The proposed language makes this a section, adds a caption to codify for consistency, amends the waterbody descriptions, and puts them in a table format.

Note: For convenience, the Department has added the previous classification to ORW and ONRW waters since it is often referenced. There are multiple instances where corrections have occurred to address errors in spelling, wrong names, inaccurate county(ies) given, and inaccurate descriptions of waterbodies. The Department has added several missing portions of waterbodies and corrected waters that were listed incorrectly. We have also made changes to have consistent language throughout the regulation. At no time have any waterbodies or sections of waterbodies had the current classification altered.

The Department has provided several examples of the types of edits made, rather than a full relisting of the entire regulation. Please refer to the text of the proposed amendments for each specific proposed change.

Examples:

Abner Creek – Revised to include previous classification for ORW and amended language for consistency throughout the regulation.

Adams Creek – Revised to include previous classification for ORW.

Allan Creek – Amended for consistency throughout the regulation.

Atlantic Intracoastal Waterway – Corrected name, moved into alphabetic order, and amended for consistency throughout the regulation.

Atlantic Intracoastal Waterway – Corrected name, moved into alphabetic order, added previous classification for ORW, and amended for clarity and consistency throughout the regulation.

Atlantic Intracoastal Waterway – Added missing section of the waterway.

Notice of Staff Informational Forum and Public Comment Period:

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on November 30, 2011, at 10:00 a.m. in Peebles Auditorium, third floor of the Sims Building 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 R.61-68, Water Classifications and Standards and R.61-69, Classified Waters. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Gina Kirkland at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; by facsimile at (803) 898-4140; or by email at kirklagl@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on November 30, 2011, the close of the comment period.

Copies of the Notice of Proposed Regulation and text of the regulation for public notice and comment may be obtained by contacting Gina Kirkland at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; by calling (803) 898-4330; or by emailing kirklagl@dhec.sc.gov. A copy may also be obtained on the Department's Regulatory Information Internet Site at <http://www.scdhec.gov/administration/regs/> in its DHEC Regulation Development Update or on the Bureau of Water's Water Quality Standards Webpage at http://www.scdhec.gov/environment/water/wq_bacteria.htm.

Comments received at the forum and/or submitted in writing by the close of the comment period as noticed above shall be considered by staff in formulating the final text of the proposed regulations and shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comment on the proposed amendments to R.61-68, Water Classifications and Standards and R.61-69, Classified Waters at a public hearing to be conducted by the Board of the Department of Health and Environmental Control at its regularly scheduled meeting on January 8, 2012. The public hearing will be held in the Board Room of the Commissioner's Suite (Room 3420), 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

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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 to the Clerk of the Board for inclusion for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Preliminary Fiscal Impact Statement:

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by these amendments. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

The 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 REGULATIONS: Amendment of Regulation 61-68, Water Classifications and Standards and amendment of Regulation 61-69, Classified Waters.

Purpose: Proposed amendment of R.61-68 will clarify, strengthen, and improve the overall quality of the existing regulation and make appropriate revisions of the State's water quality standards in accordance with Section 303(c)(2)(B) of the Federal Clean Water Act (CWA). EPA no longer approves fecal coliform as the bacterial indicator species for protecting recreational uses and recommends that States adopt E.coli or enterococci for the purpose of protecting recreational uses. The proposed amendment adopts E.coli in freshwaters and clarifies how the indicator species will be used throughout the State. Proposed amendment of R.61-69 will correct for errors, codify, add previously unlisted waters and/or sections of waters, and other minor changes to improve the overall quality of the regulation.

Legal Authority: S.C.Code Sections 48-1-40, 48-1-60, and 48-1-80, implementing the CWA.

Plan for Implementation: The proposed amendments would be incorporated within R.61-68 and R.61-69 upon approval of the Board of Health and Environmental Control, the General Assembly, and publication in the State Register. The proposed amendments will be implemented in the same manner in which the present regulations are implemented.

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

The amendment to R.61-68 is required to comply with Federal requirements of Section 303(c)(2)(B) of the CWA. The amendment to R.61-69 is necessary to provide the public with a version of the existing regulation that is accurate. The proposed amendments to R.61-68 and R.61-69 include the following:

Replace fecal coliform with E. coli as the bacterial indicator species for protection of recreational uses in all freshwaters of the State.

The proposed changes to R.61-68 relating to criteria are reasonable because the stated criteria in the amendment are based on sound scientific principles and are required in order to comply with the goals of Section 101(a)(2) and 303(c) of the CWA for protection and maintenance of the uses of the waters of the State.

Clarification of how the bacterial indicator species will be used in Department activities.

The change from fecal coliform to E. coli necessitates that specific language be revised to accurately describe how each of the bacterial indicator species (E. coli, Enterococci, fecal coliform) are used in Department activities. The reason for the inclusion of all indicators was to ensure consistency across the State in

implementing each of the bacterial indicator species through our activities such as, permitting and assessment, while maintaining and protecting all existing and classified uses.

Stylistic changes to correct for: readability, grammar, punctuation, typography, codification, references, formatting, and language style.

The proposed changes to R.61-68 include new definitions for text contained in the current regulation. This will improve the clarity and readability of the regulation. The proposed changes to R.61-68 also include corrections due to typographic errors, codification, formatting, grammar and punctuation.

The proposed changes to R.61-69 include corrections for errors found in the text of the regulation. Text was added to ensure that the regulation was consistent with language found in other State regulations. No reclassification of any waterbody or section of waterbody occurred, but rather the language was amended to ensure that the correct classifications were applied to the correct sections and portions of waters of the State. Some waters previously unlisted in R.61-69 were added and sections of waterbodies were also added to ensure that the text of the regulation accurately describes the actual waters of the State. As noted for R.61-68, stylistic changes to correct for: readability, grammar, punctuation, typographic errors, codification and formatting.

DETERMINATION OF COSTS AND BENEFITS:

Existing staff and resources will be utilized to implement these amendments to the regulations. No additional cost will be incurred by the State if the revisions are implemented and therefore, no additional State funding is being requested.

In reviewing the potential for significant economic impact of the proposed amendment to R.61-68, the Department evaluated situations in which costs would most likely be incurred by the regulated community. These estimates addressed the revisions by issue after determining those of greatest potential impact. The Department found that the overall impact to the State's political subdivisions or the regulated community as a whole was not significant in that the existing standards would have incurred similar cost or the fact that the design standards required under the amendment will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

In reviewing the potential for significant economic impact of the proposed amendment to R.61-69, the Department found no costs would be incurred by the regulated community.

UNCERTAINTIES OF ESTIMATES:

Minimal.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Implementation of these amendments will not compromise the protection of the environment or the health and safety of the citizenry of the State. The amendments to R.61-68 will promote and protect human health by the regulation of pollutants into waters of the State. Further, the amendment to R.61-69 will provide the public and regulated community a correct text of an existing regulation.

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

Failure by the Department to incorporate appropriately protective water quality standards in R.61-68 that are the basis for issuance of National Pollutant Discharge Elimination System (NPDES) permits, stormwater permits, wasteload and load allocations, groundwater remediation plans, and multiple other program areas will

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lead to contamination of the waters of the State with detrimental effects on the health of the citizens of South Carolina. Failure by the Department to correct erroneous listings of information of specific waters of the State in R.61-69 will lead to confusion in understanding the correct location, classification, or site-specific standards of specific waters of the State.

Statement of Rationale:

The statement of rationale was determined by staff analysis pursuant to S.C. Code Section 1-23-110(A)(3)(h).

The first issue contained in the proposed amendment of R.61-68 is a requirement of the CWA and is necessary for compliance with EPA's recommendations for water quality standards to ensure consistency with the CWA. To do so, the Department is proposing the adoption of E.coli to replace fecal coliform for the protection of recreational uses in freshwaters. The second issue addresses where the Department needs to explain how the different bacterial indicator species will be used in its activities and still maintain and protect all of the uses of the waters of the State. The remaining issue for both R.61-68 and R.61-69 are revisions to make corrections for clarity of the language in the regulations in order to maintain regulations that are efficient, readable, and accurate.

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. 4211
DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH
CHAPTER 71
Statutory Authority: 1976 Code Section 41-15-210

Article I, Subarticle 6 and Subarticle 7
Occupational Safety and Health Standards

The South Carolina Department of Labor, Licensing and Regulation, Division of Labor, Office of Occupational Safety and Health, hereby promulgate the following changes to South Carolina Regulations:

In Subarticle 6 (General Industry and Shipyard Employment):

Revisions to Sections 1910.6, 1910.33, 1910.34, 1910.35, 1910.36, 1910.77, 1910.132, 1910.134, 1910.141, 1910.145, 1910.147, 1910.184, 1910.440, 1910.1003, 1910.1017, 1910.1018, 1910.1020, 1910.1025, 1910.1027, 1910.1028, 1910.1029, 1910.1030, 1910.1043, 1910.1044, 1910.1045, 1910.1047, 1910.1050, 1910.1051, 1910.1450, 1917.2, and 1917.1127, as amended in FEDERAL REGISTER, Volume 76, Number 84, page 24698 dated Monday, May 2, 2011, FEDERAL REGISTER Volume 76, Number 110, pages 33606-33612 dated Wednesday, June 8, 2011 and FEDERAL REGISTER Volume 76, Number 142, page 44265 dated Monday, July 25, 2011.

In Subarticle 7 (Construction):

Revisions to Sections 1926.51, 1926.60, 1926.62, 1926.251, 1926.1101, and 1926.1127 as amended in FEDERAL REGISTER, Volume 76, Number 110, pages 33606-33612 dated Wednesday, June 8, 2011.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896-5811 or on the OSHA website at www.OSHA.gov.