

## **SOUTH CAROLINA STATE REGISTER DISCLAIMER**

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# SOUTH CAROLINA STATE REGISTER

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of the  
GENERAL ASSEMBLY

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

# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

**Executive Orders** are actions issued and taken by the Governor.

## **2016 PUBLICATION SCHEDULE**

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

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

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

## **REPRODUCING OFFICIAL DOCUMENTS**

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

## **PUBLIC INSPECTION OF DOCUMENTS**

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

## **ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS**

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

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

## **EMERGENCY REGULATIONS**

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

## **REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW**

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

## **EFFECTIVE DATE OF REGULATIONS**

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

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

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4533	SR40-2		South Carolina National Guard College Assistance Program	1/13/16	Commission on Higher Education
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4524	SR40-2		Suspension of Certification Due to Criminal Charges and/or Indictment	1/14/16	South Carolina Criminal Justice Academy
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4552			Horse Meat and Kangaroo Meat; Fairs, Camp Meetings, and Other Gatherings; Camps; Mobile/Manufactured Home Park; Sanitation of Schools; and Nuisances	3/14/16	Department of Health and Envir Control
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4570			Natural Public Swimming Areas	5/11/16	Department of Health and Envir Control
4585			State Emergency Preparedness Standards	5/11/16	Office of the Governor
4588			Safeguarding Patient Medical Records	5/11/16	LLR-Board of Medical Examiners
4589			Continuing Education, Payment of Fees, Appraisal Experience, and Appraiser Apprentice Requirements	5/11/16	LLR-Reals Estate Appraisers Board
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4571			Well Standards	5/11/16	Department of Health and Envir Control
4596			Residential Treatment Facilities for Children and Adolescents	5/11/16	Department of Health and Envir Control
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4612			Sexually Transmitted Diseases	5/20/16	Department of Health and Envir Control
4613			Solid Waste Management: Used Oil	5/20/16	Department of Health and Envir Control



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4604	Assessment Program	5/21/16	State Board of Education
4607	Charges for Family Planning Services	5/21/16	Department of Health and Envir Control
4615	Coastal Division Regulations	5/21/16	Department of Health and Envir Control
4609	Communicable Diseases	5/21/16	Department of Health and Envir Control
4608	Charges for Maternal and Child Health Services	5/21/16	Department of Health and Envir Control
4605	District and School Planning	5/21/16	State Board of Education
4614	Solid Waste Management: Solid Waste Incineration and Solid Waste Pyrolysis Facilities	5/24/16	Department of Health and Envir Control
4616	The Evaluation of School Employees for Tuberculosis	5/24/16	Department of Health and Envir Control
4595	X-Rays (Title B)	5/25/16	Department of Health and Envir Control
4634	Additional Regulations Applicable to Specific Properties	1/11/17	Department of Natural Resources
4635	Wildlife Management Area Regulations; and Turkey Hunting Rules and Seasons	1/11/17	Department of Natural Resources
<b>Resolution Introduced to Disapprove</b>			
4551	Certification of Need for Health Facilities and Services	Tolled	Department of Health and Envir Control
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## COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

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

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4527	Consumer Credit Counseling Requirements	Labor, Commerce and Industry	Banking and Insurance
4533	South Carolina National Guard College Assistance Program	Education and Public Works	Education
4534	South Carolina National Guard Student Loan Repayment Program	Education and Public Works	Education
4524	Suspension of Certification Due to Criminal Charges and/or Indictment	Judiciary	Judiciary
4539	Consumer Electronic Equipment Collection and Recovery	Agriculture and Natural Resources	Agriculture and Natural Resources
4543	Standards for Licensing Nursing Homes	Regulations and Admin. Procedures	Medical Affairs
4552	Horse Meat and Kangaroo Meat; Fairs, Camp Meetings, and Other Gatherings; Camps; Mobile/Manufactured Home Park; Sanitation of Schools; and Nuisances	Regulations and Admin. Procedures	Medical Affairs
4553	Standards for Licensing Hospices	Regulations and Admin. Procedures	Medical Affairs
4562	Board of Long Term Health Care Administrators	Regulations and Admin. Procedures	Medical Affairs
4563	Local Emergency Preparedness Standards	Regulations and Admin. Procedures	General
4564	Standards for Licensing Habilitation Centers for Persons with Intellectual Disability or Persons with Related Conditions	Regulations and Admin. Procedures	Medical Affairs
4565	Underground Storage Tank Control Regulations	Regulations and Admin. Procedures	Medical Affairs
4566	Examination Attempts, Apprenticeship, and Continuing Education Requirements	Regulations and Admin. Procedures	Medical Affairs
4573	Continuing Education in Sterilization and Infection Control	Regulations and Admin. Procedures	Medical Affairs
4574	Pilot Registration	Regulations and Admin. Procedures	Labor, Commerce and Industry
4567	Crabmeat	Regulations and Admin. Procedures	Agriculture and Natural Resources
4568	Standards for Licensing Tattoo Facilities	Regulations and Admin. Procedures	Medical Affairs
4569	Standards for Permitting Body Piercing Facilities	Regulations and Admin. Procedures	Medical Affairs
4570	Natural Public Swimming Areas	Regulations and Admin. Procedures	Medical Affairs
4585	State Emergency Preparedness Standards	Regulations and Admin. Procedures	General
4588	Safeguarding Patient Medical Records	Regulations and Admin. Procedures	Labor, Commerce and Industry
4589	Continuing Education, Payment of Fees, Appraisal Experience, and Appraiser Apprentice Requirements	Regulations and Admin. Procedures	Labor, Commerce and Industry
4593	Program Approval Standards for South Carolina Teacher Education Institutions	Regulations and Admin. Procedures	Education
4580	Vital Statistics	Regulations and Admin. Procedures	Medical Affairs
4578	South Carolina Trauma Care Systems	Regulations and Admin. Procedures	Medical Affairs
4581	WIC Vendors	Regulations and Admin. Procedures	Medical Affairs
4571	Well Standards	Regulations and Admin. Procedures	Medical Affairs
4596	Residential Treatment Facilities for Children and Adolescents	Regulations and Admin. Procedures	Medical Affairs
4594	Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems	Regulations and Admin. Procedures	Medical Affairs
4591	Onsite Wastewater Systems	Regulations and Admin. Procedures	Medical Affairs
4628	Classification of Residential Specialty Contractors	Regulations and Admin. Procedures	Labor, Commerce and Industry
4629	Residential Specialty Contractors License	Regulations and Admin. Procedures	Labor, Commerce and Industry
4630	Residential Specialty Contractors License	Regulations and Admin. Procedures	Labor, Commerce and Industry
4626	Guidelines for Sedation and General Anesthesia	Regulations and Admin. Procedures	Medical Affairs
4627	Fees for Registration and Renewal	Regulations and Admin. Procedures	Fish, Game and Forestry
4601	Minimum Requirements for Licensing of Cosmetologists as Master Hair Care Specialists	Regulations and Admin. Procedures	Labor, Commerce and Industry
4592	Continuing Competency; Continuing Education Credits	Regulations and Admin. Procedures	Medical Affairs
4622	Liquefied Petroleum (LP) Gas	Regulations and Admin. Procedures	Labor, Commerce and Industry
4586	Special Education, Education of Students with Disabilities	Regulations and Admin. Procedures	Education
4618	Fire Prevention and Life Safety	Regulations and Admin. Procedures	Labor, Commerce and Industry
4602	2015 Edition of International Codes and 2014 Edition of the National Electrical Code	Regulations and Admin. Procedures	Labor, Commerce and Industry
4619	Fire Prevention and Life Safety for Special Occupancies	Regulations and Admin. Procedures	Labor, Commerce and Industry
4621	Hydrogen Facilities	Regulations and Admin. Procedures	Labor, Commerce and Industry
4623	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	Regulations and Admin. Procedures	Labor, Commerce and Industry
4620	Fireworks and Pyrotechnic	Regulations and Admin. Procedures	Labor, Commerce and Industry
4617	Explosives	Regulations and Admin. Procedures	Labor, Commerce and Industry
4603	Alignment of Assessment and Accountability Elements with the No Child Left Behind Act	Regulations and Admin. Procedures	Education
4590	Air Pollution Control Regulations and Standards	Regulations and Admin. Procedures	Medical Affairs
4610	Emergency Medical Service	Regulations and Admin. Procedures	Medical Affairs
4611	Psittacine Birds	Regulations and Admin. Procedures	Agriculture and Natural Resources
4612	Sexually Transmitted Diseases	Regulations and Admin. Procedures	Medical Affairs
4613	Solid Waste Management: Used Oil	Regulations and Admin. Procedures	Medical Affairs
4606	Test Security	Regulations and Admin. Procedures	Education
4604	Assessment Program	Regulations and Admin. Procedures	Education
4607	Charges for Family Planning Services	Regulations and Admin. Procedures	Medical Affairs

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4615	Coastal Division Regulations	Regulations and Admin. Procedures	Agriculture and Natural Resources
4609	Communicable Diseases	Regulations and Admin. Procedures	Medical Affairs
4608	Charges for Maternal and Child Health Services	Regulations and Admin. Procedures	Medical Affairs
4605	District and School Planning	Regulations and Admin. Procedures	Education
4614	Solid Waste Management: Solid Waste Incineration and Solid Waste Pyrolysis Facilities	Regulations and Admin. Procedures	Medical Affairs
4616	The Evaluation of School Employees for Tuberculosis	Regulations and Admin. Procedures	Medical Affairs
4595	X-Rays (Title B)	Regulations and Admin. Procedures	Medical Affairs
4634	Additional Regulations Applicable to Specific Properties	Regulations and Admin. Procedures	Fish, Game and Forestry
4635	Wildlife Management Area Regulations; and Turkey Hunting Rules and Seasons	Regulations and Admin. Procedures	Fish, Game and Forestry
<b>Resolution Introduced to Disapprove</b>			
4551	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs
4538	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs

**Executive Order No. 2016-05**

**WHEREAS**, a declaration of emergency exists in the State of North Carolina due to the need for an uninterrupted supply of fuels, food, water or other goods to residential and commercial establishments as an essential need of the public during the winter weather and any interruption threatens the public welfare; and

**WHEREAS**, the Governor of the State of North Carolina has suspended federal regulations limiting the hours of service operators of commercial motor vehicles may drive pursuant to the Federal Motor Carrier Safety regulations, 49 CFR § 390, et seq., and

**WHEREAS**, whenever a declaration of emergency is declared in North Carolina that triggers relief under 49 CFR § 390.23, an emergency must be declared in this State pursuant to Section 56-5-70(B) of the South Carolina Code of Laws.

**NOW, THEREFORE**, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and of the United States of America, I hereby determine that an emergency exists in the State South Carolina for the limited purpose of complying with the declaration of emergency in the State of North Carolina and accordingly direct the South Carolina Department of Transportation and the South Carolina Department of Public Safety, and the State Transport Police as needed, to suspend the federal rules and regulations that limit the hours of service operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of fuels, food, water, or other goods to the State of North Carolina.

This emergency justifies a suspension of Part 395 (drivers' hours of service) of Title 49 of the Code of Federal Regulations. The suspension shall remain in effect for 7 days or until the emergency condition ceases to exist, whichever is less.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 CFR § 383, the financial requirements in 49 CFR § 387, or applicable federal size and weight limitations.

This order takes effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 21st DAY OF JANUARY, 2016.**

**NIKKI R. HALEY  
Governor**

**Executive Order No. 2016-06**

**WHEREAS**, centralized management of real property across state government is essential as it allows for uniform and comprehensive management of the State's real estate portfolio; and

**WHEREAS**, pursuant to Proviso 118.2 of the Fiscal Year 2015-2016 Appropriations Act, the General Assembly has expressed its intent to establish a comprehensive central real property and facility management process to plan for the needs of state government agencies and to achieve maximum efficiency and economy in the use of state-owned or state-leased real properties; and

**WHEREAS**, pursuant to Proviso 118.2 of the Fiscal Year 2015-2016 Appropriations Act, the General Assembly has, with certain exceptions, further directed that title to all property held by or acquired by state

## 6 EXECUTIVE ORDERS

agencies or departments be titled in the name of the State and be held under the control of the Department of Administration; and

**WHEREAS**, the Department of Administration is designated by law as the central broker and management authority for much of the real property of the State's agencies and departments; and

**WHEREAS**, the Department of Administration has developed a comprehensive strategic plan for the ownership and management of the real property of state government, which provides for, among other things, the continued centralization of real estate management under the Department, the disposition of obsolete and surplus properties, and the reduction of the square footage that state agencies occupy in leased and owned facilities; and

**WHEREAS**, as part of implementing the comprehensive strategic plan, surplus real property will be sold and the proceeds of such sales will be distributed according to Proviso 93.25 of the Fiscal Year 2015-2016 Appropriations Act, which provides that a certain portion of the net proceeds of any sale shall be returned to the agency for which the property is owned, controlled, or assigned and shall be used by that agency for nonrecurring purposes; and

**WHEREAS**, to achieve uniform and comprehensive management of the State's real estate portfolio, attain maximum efficiency and economy in the use of real property, and optimize the use of the proceeds from the sale of surplus real property, it is necessary that state agencies operate under a singular directive.

**NOW, THEREFORE**, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina, I hereby order the Department of Administration to implement the comprehensive strategic plan for the ownership and management of real property as follows:

(1) Cabinet Agencies are encouraged to use funds received from the sale of surplus real property pursuant to Proviso 93.25 of the Fiscal Year 2015-2016 Appropriations Act for nonrecurring real property needs in cooperation with the Department of Administration and in accordance with the State's comprehensive strategic plan for the ownership and management of real property.

(2) Cabinet Agencies and the Department of Administration shall begin to review commercial leases 18-24 months prior to expiration and shall evaluate ways to consolidate agency leases and reduce overall square footage needs.

(3) Cabinet Agencies must work with the Department of Administration to implement space standards in leased and owned facilities to achieve an overall target density of 210 square feet per person unless otherwise approved by the Department.

(4) Cabinet Agencies shall comply with the Department of Administration's site selection criteria in selecting leased or owned space.

(5) Cabinet Agencies shall enter into the South Carolina Enterprise Information System (SCEIS) the maintenance and operations expenditures for leased and owned facilities in a manner determined and directed by the Department of Administration.

(6) Real property management of state-owned or state-leased facilities shall be centralized within the Department of Administration, and Cabinet Agencies must begin working with the Department to schedule and facilitate the transfer of real estate management, maintenance and support of these facilities.

(7) Cabinet Agencies shall provide the Department of Administration a list of current contracts related to facilities management, maintenance, and support and shall not renew or enter into any new contracts related to

facilities management, maintenance, and support without prior approval from the Department of Administration.

(8) The Department of Administration shall work with Cabinet Agencies to develop plans to address ongoing and deferred maintenance for all state-owned real property.

(9) Cabinet Agencies shall annually update and submit an inventory of state land and buildings to the Department of Administration by June 30th of each fiscal year in the manner prescribed by the Department. Cabinet Agencies must include in their submissions an Annual Portfolio Assessment Report as provided in the Agency Disposition Evaluation Model with recommendations for dispositions. Final disposition decisions shall lie with the Department of Administration.

**FURTHER**, while this Order relates only to agencies under my direct authority, it is strongly suggested that all agencies and departments of the state follow the directives contained herein.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 25th DAY OF JANUARY, 2016.**

**NIKKI R. HALEY**  
**Governor**

**Executive Order No. 2016-07**

**WHEREAS**, in order to enhance the services state agencies provide to the citizens of South Carolina on all fronts, it is necessary to better utilize our information technology resources while strengthening the security of our systems to ensure the safety of our data; and

**WHEREAS**, agencies can best utilize information technology and ensure the security of data when there is collaboration among stakeholders so that our limited resources can be leveraged on a statewide basis; and

**WHEREAS**, the Department of Administration provides the vehicle for government agencies to collaborate and partner to improve the services they provide; and

**WHEREAS**, the Department of Administration has developed a Statewide Strategic Information Technology Plan designed to improve the State's ability to provide reliable, secure, cost efficient, and innovative information technology services and infrastructure; and

**WHEREAS**, the success of the Statewide Strategic Information Technology Plan and our overall efforts to improve the utilization of our information technology resources depends upon agency coordination and collaboration.

**NOW, THEREFORE**, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina, I hereby order the Department of Administration to implement the Statewide Strategic Information Technology Plan as follows:

(1) As set out in the Statewide Strategic Information Technology Plan, Cabinet Agencies shall use the shared services from the Division of Technology Operations (DTO) as those services become available and in a sequence to be determined by DTO. Cabinet Agencies shall coordinate with DTO to accomplish a strategic transition to the shared services environment. Shared services include, but are not limited to: mainframe

## 8 EXECUTIVE ORDERS

services, application hosting, servers, storage, network services, desktop services, and disaster recovery services. The State Chief Information Officer may grant an exception, to be revisited on a periodic basis, if DTO determines that it cannot immediately satisfy the technical or security capabilities required to support the agency in question.

(2) With regard to information technology governance, standards, and enterprise architecture, Cabinet Agencies shall comply with the rules, standards, plans, policies, and directives of DTO.

(3) With regard to information technology governance, standards, and enterprise architecture, Cabinet Agencies shall participate and comply with decisions determined by the information technology governance advisory groups.

(4) For consideration of the annual Appropriations Act budget submission, Cabinet Agencies shall submit all information technology budget requests to the Executive Budget Office (EBO) and DTO. The EBO and DTO shall jointly review the budget requests and recommend for funding consideration only those proposals that fit into the overall Statewide Strategic Information Technology Plan.

(5) With the consultation and approval of DTO, Cabinet Agencies must create an information technology plan for purchases that exceed \$50,000 to ensure compliance with the Statewide Strategic Information Technology Plan and the standards defined by DTO.

(6) Cabinet Agencies shall develop a three-year strategic plan for information technology, updated annually, for DTO that shall be approved by the State Chief Information Officer that sets forth: (i) operational and project priorities; (ii) budget summaries; (iii) planned projects and procurements; (iv) staffing plans; (v) security initiatives; and (vi) risks, issues, and concerns with the agency's information technology.

(7) Cabinet Agencies shall enter information technology costs into the South Carolina Enterprise Information System (SCEIS) as directed by DTO and SCEIS.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 25th DAY OF JANUARY, 2016.**

**NIKKI R. HALEY  
Governor**

### **Executive Order No. 2016-08**

**WHEREAS**, from January 21, 2016 to January 25, 2015, the National Weather Service began issuing Freezing Rain Advisories, Winter Weather Advisories, Winter Storm Warnings, and Special Weather Statements for Black Ice in effect from January 21, 2016, through January 25, 2016, forecasting periods of snow, sleet, freezing rain, and temperatures below freezing in parts of South Carolina leading to the possibility of hazardous driving conditions and power outages, which pose a threat to the health, safety, and welfare of citizens; and

**WHEREAS**, as a result of the threat of hazardous weather conditions, state government offices were closed or delayed in accordance with county government offices as follows: on Friday, January 22, 2016, in Anderson, Cherokee, Chester, Chesterfield, Darlington, Dillon, Fairfield, Florence, Greenville, Lancaster, Laurens, Marlboro, Oconee, Pickens, Spartanburg, Union, and York Counties, on Saturday, January 23, 2016, in Lancaster, Laurens, Oconee, and Spartanburg Counties, and on Monday, January 25, 2016, in Lancaster and Spartanburg Counties; and

**WHEREAS**, pursuant to Section 8-11-57 of the South Carolina Code of Laws, the governor of this State may authorize leave with pay for affected state employees who were absent from work due to the closing of state offices for hazardous weather conditions.

**NOW, THEREFORE**, pursuant to the authority vested in me by the laws and Constitution of the State of South Carolina, I hereby grant leave with pay to state employees absent from work as directed on January 22, 2016 through January 25, 2016, due to the closing of state offices caused by hazardous weather conditions.

This order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 9<sup>th</sup> DAY OF FEBRUARY, 2016.**

**NIKKI R. HALEY  
Governor**

**Executive Order No. 2016-09**

**WHEREAS**, on February 8, 2016, there existed a vacancy in the Office of the Coroner of Dorchester County upon the resignation of Christopher Nisbet, Coroner of Dorchester County, suspended from the office pursuant to Executive Order 2015-20; and

**WHEREAS**, in the event of a vacancy in the office of coroner, the undersigned is authorized to fill the office by appointing a qualified replacement pursuant to Section 17-5-50 of the South Carolina Code of Laws; and

**WHEREAS**, Alice R. Durr residing at 397 Farmers Market Road, St. George, South Carolina 29477 is a fit and proper person to serve as the Coroner of Dorchester County.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Alice R. Durr as Coroner of Dorchester County until the next general election and until her successor shall qualify.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 11<sup>th</sup> DAY OF FEBRUARY, 2016.**

**NIKKI R. HALEY  
Governor**



## 10 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

##### BUREAU OF AIR QUALITY PERMITTING EXEMPTION LIST (FEBRUARY 2016)

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

In accordance with South Carolina (SC) Regulation 61-62.1, *Definitions and General Requirements*, Section (II)(B)(2), the South Carolina Department of Health and Environmental Control (Department or DHEC) has determined that no construction permits shall be required for the sources listed below unless otherwise specified by state or federal requirements. The exemption status may change upon the promulgation of new regulatory requirements applicable to these sources.

The Department is placing the exempt sources listed in Section II(B)(2) and other sources that have been determined will not interfere with attainment or maintenance of any state or federal standard, on a list of sources to be exempted without further review. This list of exempt sources will be maintained by the Department and periodically published in the *South Carolina State Register*. Additionally, this list of exempt sources will be maintained on the DHEC website at: <http://www.scdhec.gov/Environment/AirQuality/ConstructionPermits/Exemptions/>. If you have questions or comments, please contact Hetal Patel, Division of Engineering Services, at (803) 898-4123.

The construction permitting exemptions do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements. Whether exempt or not, the emissions will need to be included when determining whether a facility or project is subject to an applicable air regulation such as Prevention of Significant Deterioration (PSD), Title V, or Maximum Achievable Control Technology (MACT) standards. The Department reserves the right to require a construction permit and the need for permit(s) will be made by the Department on a case-by-case basis. Sources listed under Section A will not require recordkeeping. Sources listed under Section B will require recordkeeping.

#### **Section A.**

The following activities/emission sources are considered insignificant and are not required to be documented unless otherwise specified by any state or federal requirements.

1. Comfort air conditioning or ventilation systems not used to remove air contaminants generated by or released from specified units of equipment.
2. Any consumer product used for the same purposes, and in similar quantities, as would be used in normal consumer use such as janitorial cleaning supplies, office supplies, personal items, maintenance supplies, etc.
3. Recreational, residential, and portable type wood stoves, heaters, or fireplaces, and non-production related smokehouses (used exclusively for smoking food products).
4. Indoor or outdoor kerosene space heaters.
5. Domestic sewage treatment facilities (excluding combustion or incineration equipment, land farms, storage silos for dry material, or grease trap waste handling or treatment facilities).
6. Water heaters which are used solely for domestic purposes.

7. Motor vehicles, aircraft, marine vessels, locomotives, tractors or other self-propelled vehicles with internal combustion engines and its refueling operations. This exemption only applies to the emissions from the internal combustion engines used to propel such vehicles and the emissions associated with refueling.

8. Fugitive particulate emissions from passenger vehicle traffic and routine lawn and grounds keeping operations.

9. Laboratory equipment and compounds used for chemical, biological or physical analyses such as quality control, environmental monitoring, bench-scale research or studies, training in chemical analysis techniques, and minor research and development (this does not apply to facilities where R&D is the primary objective). This exemption extends to the venting of in-line and in-situ process analysis equipment and other monitoring and sampling equipment.

10. Non-production laboratory equipment used at non-profit health or non-profit educational institutions for chemical or physical analyses, bench scale experimentation or training, or instruction.

11. Vacuum production devices used in laboratory operations.

12. Equipment used for hydraulic or hydrostatic testing.

13. Routine housekeeping or plant upkeep activities such as painting, roofing, paving, including all associated preparation.

14. Brazing, soldering or welding equipment used for regular maintenance at the facility.

15. Blast cleaning equipment using a suspension of abrasives in water.

16. Batch cold cleaning machines, small maintenance cleaning machines, and parts washers using only nonhalogenated solvents or CFC-113 and not subject to 40 CFR 60 Subpart JJJ (Standards of Performance for Petroleum Dry Cleaners).

17. Flares used solely to indicate danger to the public.

18. Firefighting equipment, "prop fires", and any other activities or equipment associated with firefighter training. "Prop fires" must be fired on natural gas or propane. See Section B for fire pump exemption determination.

19. Sources emitting only steam, air, nitrogen, oxygen, carbon dioxide, or any physical combination of these.

20. Farm equipment used for soil preparation, livestock handling, crop tending and harvesting and/or other farm related activities such as the application of fungicide, herbicide, pesticide, or fumigants.

21. Equipment on the premises of restaurants, industrial and manufacturing operations, etc. used solely for the purpose of preparing food for immediate human consumption.

22. Reproduction activities, such as blueprint copiers, xerographic copies, and photographic processes, except operation of such units on a commercial basis.

23. Devices used solely for safety such as pressure relief valves, rupture discs, etc., if associated with a permitted emission unit.

24. Pressurized storage tanks containing fluids such as liquid petroleum gas (LPG), liquid natural gas (LNG), natural gas, or inter gases.

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25. All petroleum storage tanks less than 3.8 cubic meters (1000 gallons).
26. Water treating systems for non-contact process cooling water or boiler feedwater, and water tanks, reservoirs, or other containers designed to cool, store, or otherwise handle water (including rainwater). See Section B for non-contact cooling tower exemption determination.
27. Electric motors emitting only ozone.
28. Refrigeration equipment including Transport Refrigeration Units (TRU), except for any such equipment:
  - a. Using an ozone-depleting substance regulated under Title VI of the Clean Air Act and/or 40 CFR Part 82.
  - b. Located at a Title V source.
  - c. Used as or in conjunction with air pollution control equipment.
29. Construction sand and gravel facilities without crushers, grinders, or dryers. These operations shall be conducted in such a manner that a minimum of particulate matter becomes airborne. In no case shall established ambient air quality standards be exceeded at or beyond the property line. The owner/operator of all such operations shall maintain dust control on the premises and any roadway owned or controlled by the owner/operator by paving or other suitable measures. Oil treatment is prohibited.
30. Shooting ranges that are not part of a permitted source such as a military installation.

### Section B.

The following activities/emission sources are exempt from construction permits however, documentation is required as specified below.

#### Project Emissions:

Emissions from exempt sources must be included in total project emissions to determine regulatory applicability such as PSD, Title V, or MACT standards.

Emissions calculations, description of the source, material safety data sheets (MSDS), throughput records, and any other information necessary to determine qualification for exemptions must be maintained and readily available.

#### Facility-Wide Emissions:

Emissions from Section B shall be included in the facility-wide emissions.

#### Documentation:

The above information shall be kept on site and made readily available to the Department upon request. The Bureau has developed exempt source log ([Form D-0721](#)) which may be utilized for keeping exemption details on-site.

If your facility has an operating permit, this information shall be submitted as indicated in your operating permit.

Some exemptions may require additional information outside what is indicated above such as SC Regulation 61-62.5, Standard No. 8 demonstration (modeling), New Source Performance Standard (NSPS) and MACT requirements, etc. These additional requirements are specified within the exemptions.

For further information on exemptions, see the Bureau of Air Quality Simplifying Air Permitting Process Exemption Booklet ([Exemption Booklet](#)).

**1. Stationary or portable combustion sources:**

i. Burn virgin fuel and which were constructed prior to February 11, 1971, and which are not located at a facility that meets the definition of a major source as defined in Regulation 61-62.70.2(r); however, modifications at these facilities may trigger the requirement to obtain a construction permit.

- a. Natural gas boilers.
- b. Oil-fired boilers of  $50 \times 10^6$  British thermal unit per hour (Btu/hr) rated input capacity or smaller.
- c. Coal-fired boilers of  $20 \times 10^6$  Btu/hr rated input capacity or smaller.

ii. Boilers and space heaters of less than  $1.5 \times 10^6$  Btu/hr rated input capacity which burn only virgin liquid fuels or virgin solid fuels.

iii. Boilers and space heaters of less than  $10 \times 10^6$  Btu/hr rated input capacity which burn only virgin gas fuels.

iv. Temporary replacement boilers of the same size/capacity or smaller (including the same fuel if required) remaining on-site for 12 months or less, used in place of permanent boilers while the permanent boiler is not in operation for maintenance, malfunction, or similar reason and whose emissions do not exceed those of the permanent boiler or differ from the character of the permanent boiler's emissions and whose exhaust point is within close proximity to the permanent boiler's exhaust point. This exemption excludes operation of a temporary boiler while a new boiler is under construction.

If a temporary boiler triggers a regulation such as a NSPS, then a determination that the boiler met the applicable requirements of the NSPS must be kept on-site and provided to the Department upon request. The owner/operator shall also keep a record of the startup date and usage periods of the temporary boiler and provide them to the Department upon request.

v. Fuel oil boilers with a rated input capacity of less than  $7.5 \times 10^6$  Btu/hr burning oil with a sulfur content of less than 0.05 weight percent (wt%). These sources are subject to 5 year tune-up requirements per 40 CFR 63 Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers Area Sources.

vi. Fuel oil boilers equipped with low NOx burner(s) and a rated input capacity of less than  $10 \times 10^6$  Btu/hr, burning oil with a sulfur content of less than 0.05 wt%. These sources are subject to 5 year tune-up requirements per 40 CFR 63 Subpart JJJJJ.

vii. Wood waste boilers with a capacity of less than  $1.8 \times 10^6$  Btu/hr burning clean wood only. These sources are subject to tune-up requirements per 40 CFR 63 Subpart JJJJJ.

viii. Industrial incinerators with total design capacity of less than  $1 \times 10^6$  Btu/hr including auxiliary devices used to recondition parts. The Opacity from these sources shall not exceed 20% and the facility shall maintain records documenting the contaminant being removed and possible emissions from the process.

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ix. Ovens with integral afterburners used to recondition or clean parts with a combined heat input of less than  $10 \times 10^6$  Btu/hr, either being electric or combusting natural gas only. The Opacity from these sources shall not exceed 20%, the particulate matter limit shall not exceed 0.5 lbs/ $10^6$  Btu total heat input, and the facility shall maintain records documenting the contaminant being removed and possible emissions from the process.

### 2. Internal Combustion Engines:

i. Emergency or portable engines as described below:

a. Engines of less than or equal to 150 kilowatt (kW) rated capacity.

b. Engines of greater than 150 kW rated capacity designated for emergency use only and are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

ii. Temporary or portable engines that meet the definition of “non-road engine” below. However, processes powered by the internal combustion engine shall be evaluated for permitting applicability.

Portable or transportable, meaning designed to be and capable of being carried or moved from one location to another and does not remain at a location for more than 12 consecutive months. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period.

iii. Diesel engine driven emergency fire pumps that are operated a total of 500 hours per year or less for testing and maintenance and have a method to record the actual hours of use such as an hour meter.

iv. Internal Combustion engines used to drive compressors or pumps with a mechanical power output of less than 200 horsepower.

v. Oxidation catalyst on generators.

### 3. Surface Coating:

i. Stand alone powder coating operations equipped with highly efficient cartridge, cyclone or combination cartridge-cyclone collection systems to separate powder from air, or other type of process equipment designed to effectively control particulate matter and use either:

a. Electric Heated Ovens and apply less than 100 tons per year (tpy) of powder coatings.

b. Natural Gas Heated Ovens with a heat input of less than  $10 \times 10^6$  Btu/hr and apply less than 98.0 tpy of powder coatings.

If hazardous air pollutant (HAP) containing materials are used, the facility is expected to demonstrate compliance with SC Standard No. 8 using air dispersion modeling. This demonstration must be maintained on-site and submitted with an operating permit renewal request. Emissions calculations, MSDS, throughput records, and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request. These emissions should be included in the facility-wide potential to emit (PTE) for the facility.

ii. Facilities that conduct surface finishing within a building and uses 3 gallons per day or less of non-HAP containing surface finishing materials such as (paints and paint components, other materials mixed with paints prior to application, and cleaning solvents). Emissions calculations, MSDS, throughput records, and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request. These emissions should be included in the facility-wide PTE for the facility.

#### **4. Wood Working/Processing:**

Good housekeeping practices that minimize fugitive emissions are required for all wood working/processing exemptions.

i. Small woodworking shops that do not conduct surface coating where the woodworking activities (such as sawing, milling, sanding, etc.) are conducted within in a building and the total combined maximum processing throughput for all woodworking equipment is less than 0.19 tons/hr. Emissions calculations, MSDS, throughput records, and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request. These emissions should be included in the facility-wide PTE for the facility.

ii. Sawmill equipment that only processes green wood (wood moisture content >12%), does not conduct fuel combustion operations, and has a maximum throughput capacity of less than  $2.45 \times 10^6$  board-feet per year. Emissions calculations, MSDS, throughput records, and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request. These emissions should be included in the facility-wide PTE for the facility.

iii. The following wood shop equipment:

- a. Hand Sanders.
- b. Hand Saws (chain saw, hand drills, etc.).
- c. Hand Distressing Tools (chisel, etc.).
- d. Equipment used for boring, notching, etc.

#### **5. Storage Vessels:**

If an owner/operator is required to have an operating permit then the owner/operator shall submit a list of storage tanks installed since the last issue or revision to the previous operating permit that qualify for an exemption with any new permit renewal or modification request. If an owner/operator is not required to have an operating permit, then the owner/operator must keep a list of storage tanks that qualify for an exemption on-site and provide the list to the Department upon request.

i. Any size and combination of above ground vertical gasoline storage tanks with a total storage capacity equal to or less than 5,000 gallons and not used for distribution.

ii. Any size and combination of above ground horizontal and vertical gasoline storage tanks with a total storage capacity equal to or less than 3,000 gallons and not used for distribution.

iii. Any size and combination of above ground storage tanks with a total storage capacity equal to or less than 3,218,418 gallons containing virgin or re-refined No. 2 Fuel Oil and fuel oils similar in composition to No. 2 Fuel Oil.

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iv. Any size and combination of above ground storage tanks with a total storage capacity equal to or less than 5,042,000 gallons containing virgin or re-refined No. 6 Fuel Oil, fuel oils similar in composition to No. 6 Fuel Oil, residual fuel oils and lubricating oils (i.e. motor oil, hydraulic oil).

v. Any size and combination of above ground vertical storage tanks with a total storage capacity equal to or less than 2,100,000 gallons containing Jet Kerosene.

vi. Any size and combination of above ground vertical storage tanks with a total storage capacity equal to or less than 30,000 gallons containing Jet Naphtha (JP-4).

vii. Any size and combination of above ground horizontal and vertical storage tanks with a total storage capacity equal to or less than 25,000 gallons containing JP-4.

viii. Any size and combination of above ground vertical storage tanks with a total storage capacity equal to or less than 84,000 gallons containing only Ethanol.

ix. All storage tanks, excluding those listed in Section A, with a capacity less than 38.7 cubic meters (10,000 gallons) that store organic liquids, excluding those that store a hazardous air pollutant except as an impurity.

### 6. Others:

i. Sources with a total uncontrolled PTE of less than five (5) tons per year each of particulates, sulfur dioxide, nitrogen oxides, and carbon monoxide; uncontrolled PTE of less than 1000 pounds per month (lbs/month) of any single toxic air pollutant (TAP) and a total uncontrolled emission rate of less than 1000 lbs/month of volatile organic compounds (VOCs) will not require construction permits. Unless otherwise exempt, sources may be exempted under this section at higher emission levels if there is a demonstration that there are no applicable limits or requirements. These applicable requirements include federally applicable limits or requirements. However, these sources may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit. For toxic air pollutant exemptions, refer to Regulation 61-62.5, Standard No. 8. Emissions calculations and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request.

ii. Sources of VOCs greater than 1000 lbs/month may not require a permit. This determination will take into consideration, but will not be limited to, applicability to state and federal requirements. No waiver will be permissible if federal requirements apply unless otherwise exempt. Emissions calculations and any other information necessary to document qualification for this exemption and the need for permit(s) will be made by the Department on a case-by-case basis. Exempt sources of VOCs may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit.

iii. Grain Dryers as described below:

a. Rack dryer of less than  $10 \times 10^6$  Btu/hr rated input capacity which only burns natural gas as fuel and dry maximum of 100,000 bushels/yr of grains.

b. Column dryer of less than  $10 \times 10^6$  Btu/hr rated input capacity which only burns natural gas as fuel and dry maximum of 1,400,000 bushels/yr of grains.

iv. Laundry dryers, extractors, or tumblers with a maximum throughput of 100,000 lb/month of fabric processed.

v. Petroleum dry cleaning facilities with a solvent consumption less than 1,600 gallons per year and not subject to 40 CFR 60 Subpart JJJ. Emissions calculations, MSDS, throughput records, and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request. These emissions should be included in the facility-wide PTE for the facility.

vi. Air strippers used in petroleum underground storage tank (UST) cleanups with well pump rates less than or equal to 23 gallons per minute (gpm) and Benzene concentrations less than the concentration as determined by the following equation:

$$C(\text{mg/l}) = 0.075/((Q)(5.0E-04)) \text{ where } Q = \text{well pump rate in gpm.}$$

Air strippers used in petroleum UST cleanups with well pump rates equal to or less than 23 gpm and Benzene concentrations greater than the concentration as determined by the equation are still exempt from permitting but must first submit air dispersion modeling to comply with SC Regulation 61-62.5 Standard No. 8. Documentation of the well pump rate capacity and Benzene concentration must be maintained on-site. Emissions calculations, MSDS, throughput records, and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request. These emissions should be included in the facility-wide PTE for the facility.

vii. Mobile tub grinders, diesel or electric powered, remaining on-site for less than 12 months grinding only clean wood. Any tub grinder that replaces a grinder at a location and that is intended to perform the same or similar function as the tub grinder replaced will be included in calculating the 12 month time period. All grinding operations shall be conducted in such a manner as to minimize fugitive particulate matter emissions. If any complaints are received, then the grinding operation can be required to stop and the complaints addressed by the Department. Emissions calculations, MSDS, throughput records, and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request. These emissions should be included in the facility-wide PTE for the facility.

viii. Painting, blasting equipment, non-commercial and non-industrial vacuum cleaning systems used for regular maintenance at the facility.

ix. Welding performed for employee training purposes on equipment that is not part of a permitted source.

x. Fumigation activities that have potential emissions below exemptible rates under SC Regulations 61-62.1, Section II(b)(2)(h); facilities that perform fumigation up to several times a year to control pest infestation; and fumigation activities that are performed in portable containers which are not located at a designated area/building/warehouse/installation/pad.

xi. The processing of whole tires into shreds or specifically sized chips. This does not include the removal of metal or further size reduction by grinding or fine shredding. Good housekeeping practices that minimize fugitive emissions are required. Emissions calculations, MSDS, throughput records, and any other information necessary to document qualification for this exemption must be maintained on-site and provided to the Department upon request. These emissions should be included in the facility-wide PTE for the facility.

xii. Sources that only emit Particulate matter (PM) that is not an air toxic or hazardous air pollutant, located within a closed building (a building where minimal PM emissions escape to the outside ambient air through, but not limited to, windows, louvers, vents, and doors), all equipment associated with the process is located inside of the closed building, and do not exhaust directly through piping, a stack, etc. to the atmosphere. A facility not meeting this criterion may still request an exemption, if sufficient information is provided to verify PM emissions to the ambient atmosphere are below exemptible threshold. The PM emissions to the ambient air from each individual process or emission point must be less than five (5) tons/year. The facility must conduct proper maintenance and good housekeeping practices to aid in the minimization of fugitive emissions to the atmosphere.



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xiii. Non-contact Cooling Towers that have the potential to emit of any criteria pollutant less than 5 TPY and VOC less than 1,000 lb/month are exempt from construction permit requirement. Cooling towers generally emit PM/PM<sub>10</sub>/PM<sub>2.5</sub> but some facilities might have VOC and HAP emissions. HAP emissions will be exempted on a case-by-case basis per Standard No. 8.

Published Date	Description of Change
November 25, 2011	Original List Published in State Register
July 26, 2013	Reorganized exemption list into categories Modified Exemptions (A)(2)(ii)(a), (B)(3)(i), (D)(1(v – Vi), (D)(3)(ii), (D)(5)(vi), (D)(5)(vii) Added exemptions (A)(1)(vi), (A)(2)(ii)(b), (A)(4), (B)(1)(iii), (B)(2)(i – iii), (B)(3)(iii), (B)(3)(v), (D)(3)(i), (D)(5)(viii – ix) and all exemptions from the SC Regulation 61-62.1, Section II(B)
November 23, 2013	Modified: A(1)(v), B(2) (i ii), B(3)(v), D(5)(iv) Added: A(1)(vi- vii), B(3)(vi vii) Removed: (A)(2)(ii) Renumbered: Changed A(2)(ii)(a) to A(2)(ii), changed A(2)(ii)(a)(1) to A(2)(ii)(a), changed A(2)(ii)(b) to A(2)(iii), C(1)(vi – xi)
July 25, 2014	Updated Exemption List based on the revisions to SC Regulation 61-62.1.
October 23, 2015	Reorganized exemption list into two sections, Section A does not require any documentations to be kept on-site, Section B are the ones which will require documentations. Modified exemptions (old exemption number in parentheses): A.3 (D.1.iii), A.18 (D.5.ii), A.26 (A.3), A.28 (B.3.vi), B.1.v (A.1.v), B.1.vii (A.1.vii), B.2.i (A.2.i), B.2.ii (A.2.ii), B.3.i (A.1.i & B.1.ii), B.4.i (B.2.i), B.4.ii (B.2.ii), B.6.xiii (B.3.v), B.6.xiv (A.3) Removed: C.1.ii, C.1.viii Added: A.25, A.27, B.1.viii, B.1.ix, B.2.iv, B.5.ix, B.6.iii, B.6.iii, B.6.ix, B.6.x
December 25, 2015	Changed title of the exemption list to BAQ Permitting Exemption List. Added: A.29 Modified on B.6.iv, B.6.xiii Moved B.6.viii to Section A as A.30
2016	The following was added to 6.xii for clarification: “all equipment associated with the process is located inside of the closed building”

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

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

South Carolina Regulation 61-62.1, *Definitions and General Requirements*, Section II.B.6, defines when exemptions can be made when obtaining a construction permit. From this definition, facilities may request to be exempt from having to obtain a construction permit when relocating existing equipment to a new location.

The Department has developed guidance, in the form of a memo, to be used by Bureau of Air Quality (BAQ) staff in making the determination of when to allow facility relocation for asphalt plants covered under the General Conditional Major permit for Asphalt Plants. This guidance will be maintained by the Department and periodically published in the *South Carolina State Register*. Additionally, this guidance will be maintained on the DHEC website at: <http://www.scdhec.gov/Environment/AirQuality/Training/>.

If you have any questions or comments, please contact Alyson Hayes, Division of Engineering Services, at (803) 898-4123.

## 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 February 26, 2016 for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Vonja Szatkowski, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3028.

**Affecting Abbeville County****PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Abbeville**

Establishment of a new Home Health Agency in Abbeville County at a total project cost of \$15,590.

**Affecting Allendale County****Amedisys SC, LLC d/b/a Amedisys Home Health of Bluffton**

Establishment of a new Home Health Agency in Allendale County at a total project cost of \$18,138.

**Affecting Anderson County****PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Anderson**

Establishment of a new Home Health Agency in Anderson County at a total project cost of \$15,590.

**Abbeville County Memorial Hospital d/b/a Health Related Home Care - Anderson County**

Establishment of a new Home Health Agency in Anderson County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$15,200.

**Amedisys Home Health, Inc. of South Carolina d/b/a Amedisys Home Health of Clinton**

Establishment of a new Home Health Agency in Anderson County at a total project cost of \$18,138.

**Affecting Barnwell County****Amedisys SC, LLC d/b/a Amedisys Home Health of Lexington**

Establishment of a new Home Health Agency in Barnwell County at a total project cost of \$18,138.

**Affecting Beaufort County****SS&J Associates, LLC d/b/a BrightStar Care Lowcountry - Beaufort County**

Establishment of a new Home Health Agency in Beaufort County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,000.

**Affecting Charleston County****Gary Lesesne d/b/a Assurance Home Health Care**

Establishment of a new Home Health Agency in Charleston County at a total project cost of \$0.

**The Southeastern Spine Institute Ambulatory Surgery Center, LLC**

Relocation and replacement of an Ambulatory Surgery Facility (ASF) with no increase in operating rooms (ORs) and for an additional three procedure rooms, for a total of 2 ORs and 3 Procedure Rooms at a total project cost of \$13,135,194.

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### **East Cooper Community Hospital, Inc. d/b/a East Cooper Medical Center**

Establishment of Diagnostic Cardiac Catheterization Services at a total project cost of \$442,612.

#### **Affecting Chesterfield County**

### **McLeod Regional Medical Center of the Pee Dee, Inc. d/b/a McLeod Home Health**

Establishment of a new Home Health Agency in Chesterfield County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$0.

### **PruittHealth Home Health, Inc. d/b/a PruittHealth – Chesterfield**

Establishment of a new Home Health Agency in Chesterfield County at a total project cost of \$17,099.

#### **Affecting Clarendon County**

### **PruittHealth Home Health, Inc. d/b/a PruittHealth – Clarendon**

Establishment of a new Home Health Agency in Clarendon County at a total project cost of \$17,099.

### **Georgetown Hospital Home Health, LLC d/b/a Amedisys Home Health Care**

Establishment of a new Home Health Agency in Clarendon County at a total project cost of \$18,138.

#### **Affecting Darlington County**

### **PruittHealth Home Health, Inc. d/b/a PruittHealth – Darlington**

Establishment of a new Home Health Agency in Darlington County at a total project cost of \$17,099.

#### **Affecting Dillon County**

### **PruittHealth Home Health, Inc. d/b/a PruittHealth – Dillon**

Establishment of a new Home Health Agency in Dillon County at a total project cost of \$17,099.

#### **Affecting Dorchester County**

### **Presbyterian Home of South Carolina d/b/a Presbyterian Communities of South Carolina -- The Village at Summerville**

Construction for the replacement of an existing 87 bed nursing facility and for the addition of one long term bed, for a total of 88 long term beds at a total project cost of \$28,400,134.

#### **Affecting Edgefield County**

### **PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Edgefield**

Establishment of a new Home Health Agency in Edgefield County at a total project cost of \$15,590.

#### **Affecting Florence County**

### **PruittHealth Home Health, Inc. d/b/a PruittHealth – Florence**

Establishment of a new Home Health Agency in Florence County at a total project cost of \$17,099.

### **McLeod Regional Medical Center of the Pee Dee, Inc.**

Addition of 8 medical/surgical beds for a total of 461 medical/surgical beds and the addition of 8 NICU Intensive Care bassinets for a total of 20 NICU Intensive Care bassinets, at a total project cost of \$995,000.00.

**Affecting Georgetown County**

**Tidelands Georgetown County Memorial Hospital d/b/a Tidelands Georgetown Memorial Hospital**  
Renovation and expansion for the replacement of the Surgical Suite at a total project cost of \$44,068,689.

**PruittHealth Home Health, Inc. d/b/a PruittHealth – Georgetown**

Establishment of a new Home Health Agency in Georgetown County at a total project cost of \$17,099.

**Affecting Greenville County****PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Greenville**

Establishment of a new Home Health Agency in Greenville County at a total project cost of \$15,590.

**Abbeville County Memorial Hospital d/b/a Health Related Home Care - Greenville County**

Establishment of a new Home Health Agency in Greenville County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$15,200.

**Affecting Greenwood County****PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Greenwood**

Establishment of a new Home Health Agency in Greenwood County at a total project cost of \$15,590.

**Affecting Horry County****PruittHealth Home Health, Inc. d/b/a PruittHealth - Horry**

Establishment of a new Home Health Agency in Horry County at a total project cost of \$17,099.

**McLeod Loris Seacoast Hospital d/b/a McLeod Health Carolina Forest Campus**

Construction of a new, off-Campus Emergency Department (ED) consisting of 12,995 sf located within an MOB currently under construction at a total project cost of \$9,575,662.77.

**Affecting Jasper County****SS&J Associates, LLC d/b/a BrightStar Care Lowcountry - Jasper County**

Establishment of a new Home Health Agency in Jasper County wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,000.

**Affecting Lancaster County****Amedisys SC, LLC d/b/a Neighbors Care Home Health Agency, an Amedisys Company**

Establishment of a new Home Health Agency in Lancaster County at a total project cost of \$18,138.

**Affecting Laurens County****PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health - Laurens**

Establishment of a new Home Health Agency in Laurens County at a total project cost of \$15,590.

**Affecting Marion County****PruittHealth Home Health, Inc. d/b/a PruittHealth – Marion**

Establishment of a new Home Health Agency in Marion County at a total project cost of \$17,099.

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### Affecting Marlboro County

#### **PruittHealth Home Health, Inc. d/b/a PruittHealth – Marlboro**

Establishment of a new Home Health Agency in Marlboro County at a total project cost of \$17,099.

### Affecting McCormick County

#### **PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – McCormick**

Establishment of a new Home Health Agency in McCormick County at a total project cost of \$15,590.

### Affecting Newberry County

#### **Abbeville County Memorial Hospital d/b/a Health Related Home Care**

Establishment of a new Home Health Agency in Newberry County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$17,200.

### Affecting Oconee County

#### **PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Oconee**

Establishment of a new Home Health Agency in Oconee County at a total project cost of \$15,590.

### Affecting Pickens County

#### **PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Pickens**

Establishment of a new Home Health Agency in Pickens County at a total project cost of \$15,590.

### Affecting Saluda County

#### **PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Saluda**

Establishment of a new Home Health Agency in Saluda County at a total project cost of \$15,590.

#### **Amedisys SC, LLC d/b/a Amedisys Home Health of Lexington**

Establishment of a new Home Health Agency in Saluda County at a total Project cost of \$18,138.

### Affecting Spartanburg County

#### **PruittHealth Home Health, Inc. d/b/a PruittHealth Home Health – Spartanburg**

Establishment of a new Home Health Agency in Spartanburg County at a total project cost of \$15,590.

#### **Amedisys Home Health, Inc. of South Carolina d/b/a Amedisys Home Health of Clinton**

Establishment of a new Home Health Agency in Spartanburg County at a total Project cost of \$21,894.

### Affecting Williamsburg County

#### **PruittHealth Home Health, Inc. d/b/a PruittHealth – Williamsburg**

Establishment of a new Home Health Agency in Williamsburg County at a total project cost of \$17,099.

### Affecting York County

#### **Amedisys SC, LLC d/b/a Neighbors Care Home Health Agency, an Amedisys Company**

Establishment of a new Home Health Agency in York County at a total Project cost of \$21,894.

**Brent Brady, R.Ph d/b/a Rock Hill Treatment Specialist**

Establishment of a new Narcotic Treatment Program (NTP) in York County at a total project cost of \$141,400.

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 February 26, 2016. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Vonja Szatkowski, Certificate of Need Program, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3028.

**Affecting Abbeville County****Renaissance Home Health, LLC**

Establishment of a new Home Health Agency in Abbeville County at a total project cost of \$4,698.38.

**Affecting Allendale County****PruittHealth Home Health d/b/a PruittHealth Home Health – Allendale**

Establishment of a new Home Health Agency in Allendale County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

**Affecting Bamberg County****PruittHealth Home Health d/b/a PruittHealth Home Health – Bamberg**

Establishment of a new Home Health Agency in Bamberg County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

**Affecting Barnwell County****PruittHealth Home Health d/b/a PruittHealth Home Health – Barnwell**

Establishment of a new Home Health Agency in Barnwell County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

**Affecting Beaufort County****M&C Group, LLC d/b/a Home Helpers of Bluffton (Beaufort County)**

Establishment of a Home Health Agency in Beaufort County wherein Licensee began operation during the period of time the CON Program was not operating at a total project cost of \$0.

**Affecting Berkeley County****PruittHealth Home Health d/b/a PruittHealth Home Health – Berkeley**

Establishment of a new Home Health Agency in Berkeley County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

**Affecting Calhoun County****PruittHealth Home Health d/b/a PruittHealth Home Health - Calhoun**

Establishment of a new Home Health Agency in Calhoun County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

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### Affecting Charleston County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health – Charleston**

Establishment of a new Home Health Agency in Charleston County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

#### **Medical University Hospital Authority d/b/a Medical University of South Carolina (Musculoskeletal Institute)**

Construction of a new Ambulatory Surgical Facility (ASF) with six (6) Operating Rooms, two (2) Endoscopy Rooms, and an imaging platform including one (1) MRI and one (1) CT Scan at a total project cost of \$41,990,944.

### Affecting Cherokee County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health – Cherokee**

Establishment of a new Home Health Agency in Cherokee County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

### Affecting Chester County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health – Chester**

Establishment of a new Home Health Agency in Chester County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

### Affecting Colleton County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health – Colleton**

Establishment of a new Home Health Agency in Colleton County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

### Affecting Dorchester County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health – Dorchester**

Establishment of a new Home Health Agency in Dorchester County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

### Affecting Fairfield County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health - Fairfield**

Establishment of a new Home Health Agency in Fairfield County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

### Affecting Hampton County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health - Hampton**

Establishment of a new Home Health Agency in Hampton County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

### Affecting Horry County

#### **McLeod Loris Seacoast Hospital d/b/a McLeod Seacoast**

Renovation for the relocation of Cardiac Catheterization services from McLeod Loris to McLeod Seacoast at a total project cost of \$2,409,969.

**Affecting Jasper County****PruittHealth Home Health d/b/a PruittHealth Home Health – Jasper**

Establishment of a new Home Health Agency in Jasper County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.

**Island Health Care, Inc.**

Establishment of a new Home Health Agency in Jasper County wherein Licensee began operation during the time CON was not operating, at a total project cost of \$8,040.00.

**M&C Group, LLC d/b/a Home Helpers of Bluffton (Jasper County)**

Establishment of a new Home Health Agency in Jasper County at a total project cost of \$0.

**Affecting Kershaw County****PruittHealth Home Health d/b/a PruittHealth Home Health – Kershaw**

Establishment of a new Home Health Agency in Kershaw County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

**Affecting Lancaster County****PruittHealth Home Health d/b/a PruittHealth Home Health – Lancaster**

Establishment of a new Home Health Agency in Lancaster County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

**Advanced Home Care, Inc. d/b/a Advanced Home Care**

Establishment of a new Home Health Agency in Lancaster County at a total project cost of \$47,000.

**Affecting Lee County****PruittHealth Home Health d/b/a PruittHealth Home Health – Lee**

Establishment of a new Home Health Agency in Lee County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

**Affecting Lexington County****PruittHealth Home Health d/b/a PruittHealth Home Health – Lexington**

Establishment of a new Home Health Agency in Lexington County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

**Affecting Newberry County****PruittHealth Home Health d/b/a PruittHealth Home Health – Newberry**

Establishment of a new Home Health Agency in Newberry County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

**Affecting Orangeburg County****PruittHealth Home Health d/b/a PruittHealth Home Health - Orangeburg**

Establishment of a new Home Health Agency in Orangeburg County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$5,285.



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### Affecting Richland County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health – Richland**

Establishment of a new Home Health Agency in Richland County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

### Affecting Sumter County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health – Sumter**

Establishment of a new Home Health Agency in Sumter County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

### Affecting Union County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health – Union**

Establishment of a new Home Health Agency in Union County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

### Affecting York County

#### **PruittHealth Home Health d/b/a PruittHealth Home Health - York**

Establishment of a new Home Health Agency in York County, wherein the Licensee began operations during the period of time the CON Program was not operating, at a total project cost of \$13,400.

#### **Advanced Home Care, Inc. d/b/a Advanced Home Care**

Establishment of a new Home Health Agency in York County at a total project cost of \$62,500.

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

### NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

State Register Document 4642

The Department of Health and Environmental Control published a Notice of Proposed Regulation and Opportunity for Public Comment in the *State Register* on January 22, 2016, identified as Document 4642, to promulgate amendments of Regulation 61-24, *Licensed Midwives*. The aforementioned Notice scheduled a write-in public comment period that closed February 22, 2016, and gave notice of a Public Hearing scheduled before the Board of Health and Environmental Control for March 10, 2016.

The Public Hearing originally scheduled for March 10, 2016, has been cancelled and rescheduled before the Department's Board for April 7, 2016. The hearing will be held at the regularly-scheduled Board meeting on April 7, 2016, in the Peoples Auditorium, Third Floor, Aycocock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, SC. Please note, this public hearing will be held in the Peoples Auditorium, not the Board Room. Due to admittance procedures at the DHEC building, all visitors should enter through the Bull Street entrance and register at the front desk.

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 noticed in the Board's agenda to be published by the Department twenty-four (24) hours in advance of the meeting at <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>. The agenda will also provide notice of cancellation or any change in meeting times. 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.

## **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

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

DHEC-Bureau of Land and Waste Management, File #57121  
PolyOne, Inc. Site

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

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Voluntary Cleanup Contract (VCC) with Firestone Building Products Company, LLC (Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the former PolyOne, Inc. facility located in Williamsburg County, at 1457 Eastland Avenue, Kingstree, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants from the facility property (Site).

Future response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and performing: a Remedial Investigation (RI) to determine the source, nature, and extent of the release or threat of release of hazardous substances, pollutants, or contaminants and, if necessary, conduct a Feasibility Study (FS) to evaluate alternatives to clean-up the Site. Further, the Responsible Party will reimburse the Department's past costs of response of \$507.64 and the Department's future costs of overseeing the work performed by the Responsible Party and other Department costs of response pursuant to the VCC.

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

- (1) On-line at [www.scdhec.gov/Apps/Environment/PublicNotices](http://www.scdhec.gov/Apps/Environment/PublicNotices); or
- (2) By contacting David Wilkie at 803-898-0882 or [wilkietd@dhec.sc.gov](mailto:wilkietd@dhec.sc.gov).

Any comments to the proposed VCC must be submitted in writing, postmarked no later than March 28, 2016, and addressed to: David Wilkie, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

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

**REVENUE AND FISCAL AFFAIRS OFFICE  
BOARD OF ECONOMIC ADVISORS**

**NOTICE OF GENERAL PUBLIC INTEREST**

We have calculated the increase in the limit on compensation for noneconomic damages on a medical malpractice claim. Pursuant to Section 15-32-220(F), the limit on civil liability for noneconomic damages on a medical malpractice claim is adjusted each fiscal year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year 2004. The 2004 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2015, the Index published by the Bureau of Labor Statistics, *Monthly Labor Review*, Table 38, "Consumer Price Index for All Urban Consumers", increased by 24.3% from a value of 190.3 in December 2004 to 236.525 in December 2015. Therefore, the limit not to exceed \$350,000 would increase to \$435,015 against a single health care provider and a health care institution for each claimant for civil liability for noneconomic damages on medical malpractice claims when final judgment is rendered. Also, the limit not to exceed \$1,050,000 would increase to \$1,305,050 for all health care providers and all health care institutions for each claimant for civil liability for noneconomic damages on medical malpractice claims. The adjusted limitations on compensation for noneconomic damages become effective upon publication in the *State Register* pursuant to Section 1-23-40(2).

**REVENUE AND FISCAL AFFAIRS OFFICE  
BOARD OF ECONOMIC ADVISORS**

**NOTICE OF GENERAL PUBLIC INTEREST**

We have calculated the increase in the limit on punitive damages awarded to each claimant that is entitled to an award. Pursuant to Section 15-32-530(D), the limit on punitive damage awards is adjusted each calendar year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year 2010. The 2010 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2015, the Index published by the Bureau of Labor Statistics, *Monthly Labor Review*, Table 38, "Consumer Price Index for All Urban Consumers", increased by 7.9% from a value of 219.179 in December 2010 to 236.525 in December 2015. Therefore, the limit not to exceed \$500,000 would increase to \$539,570 to each claimant entitled to a punitive damage award. The adjusted limitations on an award for punitive damages become effective upon publication in the *State Register* pursuant to Section 1-23-40(2).

**REVENUE AND FISCAL AFFAIRS OFFICE  
OFFICE OF RESEARCH AND STATISTICS**

**NOTICE OF GENERAL PUBLIC INTEREST**

Pursuant to the South Carolina Code of Laws, Section 15-41-30 requires the Economic Research Section of the Office of Research and Statistics of the Revenue and Fiscal Affairs Office to adjust each dollar amount in subsection (A), items (1) through (14), by the change in the Southeastern Consumer Price Index, All Urban Consumers, as published by the U.S. Department of Labor Statistics, for the most recent year ending immediately before January first preceding July first. We computed the change in the index as the change in the average value of the index for the period from January 1, 2015 through December 31, 2015 compared to the average value of the index for the period from January 1, 2006 through December 31, 2006. This percentage change was 18.2 percent. Each dollar amount that represents this change has been rounded to the nearest twenty-five dollars as required by law. I have enclosed a table for you that represents the changes that should be made to each dollar amount in Section 15-41-30(A)(1) through (14).

## Section 15-41-30. Property Exempt from Attachment, Levy, and Sales.

Amount Specified Subsection	Adjusted for as of May 22, 2008	Inflation 1/
1	\$50,000	\$59,100
	\$100,000	\$118,200
2	\$5,000	\$5,900
3	\$4,000	\$4,725
4	\$1,000	\$1,175
5	\$5,000	\$5,900
6	\$1,500	\$1,775
7	\$5,000	\$5,900
8	Unspecified	
9	\$4,000	\$4,725
10	Unspecified	
11	Unspecified	
12	Unspecified	
13	Unspecified	
14	Unspecified	

Notes: All calculations made by the Economic Research Section of the Office of Research and Statistics of the Revenue and Fiscal Affairs Office.

1/ Dollar amounts are adjusted by the change in the Southeastern Consumer Price Index, All Urban Consumers, for the most recent year ending immediately before January first preceding July first, and rounded to the nearest twenty-five dollars (Section 15-41-30 (B)).

Sources: U.S. Department of Labor, Bureau of Labor Statistics; Legislative Printing and Information Technology Systems (Act 225 of 2007, H.B.3816).

## 30 DRAFTING NOTICES

### 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 Caitlan Bell, Air Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via electronic mail at [bellcl@dhec.sc.gov](mailto:bellcl@dhec.sc.gov). To be considered, the Department must receive comments by 5:00 p.m. on March 28, 2016, the close of the drafting comment period.

#### **Synopsis:**

The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations throughout each calendar year. Recent federal amendments to 40 CFR Parts 50, 51, 52, 60, and 63 include clarification, guidance and technical amendments regarding state implementation plan (SIP) requirements, New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, and revisions to National Ambient Air Quality Standards.

The Department proposes to amend: Regulation 61-62.1, Section II, Permit Requirements; Regulation 61-62.5, Standard No.1, Emissions from Fuel Burning Operations; and Regulation 61-62.5, Standard 4, Emissions from Process Industries, to address periods of excess emissions during startup, shutdown, or malfunction (SSM) events as required by the EPA in response to a national petition for rulemaking and to address a finding of substantial inadequacy (referred to as a ‘SIP call’) (80 FR 33840, June 12, 2015).

The Department also proposes to amend: Regulation 61-62.1, Section III, Emissions Inventory and Emissions Statements; Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards; and the SIP, to incorporate by reference recent federal amendments promulgated from January 1, 2015, through December 31, 2015.

The Department may also propose other changes to Regulation 61-62 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.

In accordance with 1976 Code Section 1-23-120(H), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law.

**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 proposes to amend specific sections of Regulation 61-68, Water Classifications and Standards, and Regulation 61-69, Classified Waters. Interested persons are invited to submit their views and recommendations in writing to Kyle D. Maurer, Water Quality Standards Coordinator, Bureau of Water, 2600 Bull Street, Columbia, South Carolina 29201 or via e-mail at [maurerkd@dhec.sc.gov](mailto:maurerkd@dhec.sc.gov). To be considered, written comments must be received no later than 5:00 p.m. on March 28, 2016, the close of the drafting comment period.

**Synopsis:**

Section 303(c)(2)(B) of the Federal Clean Water Act (CWA) requires that South Carolina's water quality standards be reviewed and revised, where necessary, at least once every three years for the purposes of considering the Environmental Protection Agency's (EPA) most recent numeric and narrative criteria and comply with recent Federal regulatory revisions and recommendations. This process is commonly referred to as the "triennial review," and the Department has prepared this Notice of Drafting for the required triennial review process. The Department proposes amending R.61-68 and R.61-69 with respect to the following topics:

Review and, where appropriate, adoption of updated Federal water quality criteria to reflect the most current final published numeric criteria according to Section 304(a) and Section 307(a) of the CWA. EPA has published the following numeric criteria guidance documents: Final Updated Ambient Water Quality Criteria for the Protection of Human Health, Federal Register Volume 80, Number 124 (June 2015). The June 2015 publication revised human health water quality criteria for ninety-four (94) chemical pollutants based on new assumptions for exposure inputs (body weight, drinking water consumption, and fish consumption), bioaccumulation factors, toxicity values, and relative source contributions.

Review and, where appropriate, adoption of requirements to reflect EPA's Final Rulemaking to Update the National Water Quality Standards Regulation. The final rule was published in the Federal Register on August 21, 2015 (80 FR 51019) and may be found in 40 CFR 131. The State's currently promulgated Water Quality Standards meet the requirements of the rulemaking.

The Department may make additional changes consistent with the goals of the Clean Water Act. The Department may also make stylistic changes to amend both regulations for internal consistency; clarification in wording; corrections of references, grammatical errors, outlining/codification and such other changes as may be necessary to improve the overall quality of the regulation pursuant to regulation drafting standards required by the Legislative Council.

Legislative review will be required.

## 32 PROPOSED REGULATIONS

Document No. 4643  
**CLEMSON UNIVERSITY**  
**STATE CROP PEST COMMISSION**  
CHAPTER 27

Statutory Authority: 1976 Code Sections 46-9-40 and 46-9-50

### **Preamble:**

The State Crop Pest Commission proposes to add language regarding the regulation and control of the Benghal Dayflower (a federally listed noxious weed), as well as defining the terms and conditions of quarantine in South Carolina.

### Section-by-Section Discussion:

#### 27-56 Benghal Dayflower Quarantine

##### 27-56.1 Definitions

Add new text with definitions to be used throughout this section.

##### 27-56.2 Regulated Articles

Add new text identifying articles associated with or likely to come into contact with the Benghal Dayflower and its spread.

##### 27-56.3 Conditions Governing the Movement of Regulated Articles

Add new text with language explaining how regulated articles will be monitored and permitted to move in and out of the quarantine area, if at all.

##### 27-56.4 Disposition of Certificates

Add new text identifying responsibility of carrier for furnishing certificates to consignees.

##### 27-56.5 Movement for Scientific Purposes

Add new current text citing methods and conditions for moving regulated articles for scientific purposes.

##### 27-56.6 Compliance Agreement

Add new text providing for the overall terms and need for a compliance agreement with persons identified as being engaged in the movement or possible movement of regulated articles that could cause the spread of infestation of the Benghal Dayflower.

##### 27-56.7 Inspection and Disposal

Add new text to provide the authority and protocol to be followed by state inspectors when the risk of plant pest infestation is suspected, including the treatment of shipments or items, as a way to mitigate the risk of further infestation.

##### 27-56.8 Waiver of Liability

Add new text limiting the liability of the State Crop Pest Commission for costs incurred by persons required to comply with the terms of this quarantine.

##### 27-56.9 Penalties

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

##### 27-56.10 Exemptions to Regulated Articles

Add new text indicating how selected articles may be moved outside of the quarantined area without being subject to these regulations.

27-56.11 Regulated Areas

Add new text providing for an official listing of regulated areas, which can be viewed publicly online.

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

**Notice of Public Hearing and Opportunity for Public Comment:**

All written comments and requests for a public hearing should be sent to Dr. Stephen E. Cole, Director, Regulatory Services, Clemson University, 511 Westinghouse Road, Pendleton, SC 29670. Hearing on March 30, 2016, unless no written comment requests are made by March 28, 2016, at which time the hearing on March 30, 2016 will be cancelled.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION:

Purpose: The proposed regulations will list the Benghal Dayflower as a Plant Pest and establish control of a quarantine area, process and controls to prevent the spread of this plant pest.

Legal Authority: Sections 46-9-40 and 46-9-50.

Plan for Implementation: The specific quarantine areas will be placed on the Clemson University website, [www.clemson.edu/invasives](http://www.clemson.edu/invasives), and will be reviewed and updated at least annually.

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

The proposed regulation changes will limit and/or stop the spread of the invasive weed known as Benghal Dayflower in South Carolina. They will also provide for additional oversight and inspections of equipment for the weed which will increase awareness and precaution regarding its unintended movement. These changes represent a timely and responsive plan of action to eradicate the weed where possible, while limiting its economic impact on those that produce agricultural commodities from infested lands.

DETERMINATION OF COSTS AND BENEFITS:

No increases in costs are expected.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.



## 34 PROPOSED REGULATIONS

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

Without implementation of the proposed regulations, South Carolina residents would be free to move this invasive weed around at will spreading it throughout the state resulting in increased competition with native plants. The weed has proven to be more aggressive than many native plants and could out-compete them for sunlight and nutrients.

#### Statement of Rationale:

Benghal Dayflower is known to be highly competitive with agronomic crops grown in our region and difficult, and expensive, to control. With multiple methods of propagation and survivability, the weed is not easily stopped with conventional agriculture practices and routine chemical applications. An organized and extensive program for eradication and control is needed to combat the weed and prevent its spread. Without the implementation of the proposed regulations, the weed may spread quickly throughout the state resulting in a widespread, negative economic impact to South Carolina residents beyond the currently affected areas. Additionally, neighboring states, risking its spread from South Carolina, will likely impose external quarantines which are typically more difficult, if not impossible to navigate if these proposed regulations are not implemented.

#### Text:

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

Document No. 4645

### DEPARTMENT OF EMPLOYMENT AND WORKFORCE

#### CHAPTER 47

Statutory Authority: 1976 Code Sections 41-29-110 and 41-31-45(C)

47-501. Unemployment Trust Fund Solvency

#### Preamble:

The South Carolina Department of Employment and Workforce proposes to amend Regulation 47-501 in Article 5. Unemployment Trust Fund Solvency, to have the initial rebuilding period remain at five (5) years and to have any and all subsequent rebuilding periods be four (4) years.

Notice of Drafting for the proposed regulation was published in the *State Register* on January 22, 2016.

#### Section-by-Section Discussion

47-501. Unemployment Trust Fund Solvency.

This section provides details on how the income necessary to be raised each year to set state unemployment insurance tax rates will be determined based on economic conditions. The proposed amendment revises the rebuilding period for subsequent rebuilds from five (5) years to four (4) years.

#### Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to Sally Foster, Director of Governmental Affairs and Special Projects, 1550 Gadsden St. Columbia, SC 29201 or by email to [sfoster@dew.sc.gov](mailto:sfoster@dew.sc.gov) on or before 5:00 p.m. on March 28, 2016.

A public hearing is scheduled for March 29, 2016 at 10:00 a.m., at the Administrative Law Court in the Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, South Carolina.

**Preliminary Fiscal Impact Statement:**

No additional state funding is requested. The South Carolina Department of Employment and Workforce estimates that no additional costs will be incurred by the state and its political subdivisions in amending Regulation 47-501.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 47-501, Unemployment Trust Fund Solvency.

Purpose: Regulation 47-501 outlines how the Department determines the income necessary to pay benefits and return the trust fund to an adequate level, as defined by S.C. Code Ann. Section 41-31-45(A)(5) and S.C. Code Section 41-31-45(C), and in what time period, once the unemployment insurance trust returns to solvency, as directed in S.C. Code Ann. Section 41-31-45(C). The purpose of the proposed amendment will change the rebuilding period for subsequent rebuilds from five (5) years to four (4) years.

Legal Authority: 1976 Code Section 41-31-45(C).

Plan for Implementation: The proposed Regulation will be implemented by staff in the Unemployment Insurance Tax Division when setting tax rates each year in consultation with the US Department of Labor.

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

As reflected in 1976 Code Section 41-31-45(C), the Department must ensure the public has an understanding of how tax rates will be set each tax year to ensure that the unemployment trust fund is returned to an adequate level. The purpose of the proposed regulation is to change the rebuilding period for subsequent rebuilds from five (5) years to four (4) years.

**DETERMINATION OF COSTS AND BENEFITS:**

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

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions as they are not subject to quarterly unemployment insurance taxes and reimburse the Department dollar-for-dollar for all unemployment benefits charged against their accounts. The estimates for impact on the business community will be variable based on the state of the economy and the timing of the next economic contraction.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

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

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

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

## **36 PROPOSED REGULATIONS**

### **Statement of Rationale:**

The purpose of amending Regulation 47-501 is to change the rebuilding period for subsequent rebuilds from five (5) years to four (4) years.

### **Text:**

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

Document No. 4527

**DEPARTMENT OF CONSUMER AFFAIRS****CHAPTER 28**

Statutory Authority: 1976 Code Sections 37-7-101 et seq.,  
Particularly Sections 37-7-112 and 37-7-121

## 28-700. Consumer Credit Counseling Requirements

**Synopsis:**

The department proposes to amend Regulation 28-700. The proposed regulation modifies the fees credit counseling organizations licensed under 1976 Code Section 37-7-101 *et seq.* may charge the consumers.

South Carolina Code sections 37-7-112 and 37-7-121 authorize the department to promulgate regulations necessary to effectuate the purposes of the chapter.

Notice of Drafting for the proposed regulation was published in the *State Register* on September 26, 2014. Comments were solicited for consideration in drafting the proposed regulation. Proposed regulation was published in the *State Register* on November 28, 2014.

**Instructions:**

Amend Regulation 28-700. (Consumer Credit Counseling Requirements) as printed below.

**Text:**

## 28-700. Consumer Credit Counseling Requirements.

(Statutory Authority 1976 Code Section 37-7-101, as amended)

## A. Definitions

(1) Definitions shall be those contained in the Consumer Credit Counseling Act, S.C. Code Ann. Section 37-7-101 *et seq.* and the following:

(a) "Fees and charges of licensees" means the amount of money the credit counseling organization licensee may charge to the consumer.

(b) "Good Faith" means honesty in fact and the observance of reasonable standards of fair dealing.

(c) "Instructor" means a person that presents or teaches a continuing education course to licensees or otherwise guides licensees through the course materials.

(d) "Professional certification organization" means an independent organization, approved by the department, which authenticates the competence of individuals providing education and assistance to other individuals in connection with credit counseling services.

(e) "Sponsor" means a person that offers or otherwise coordinates a continuing professional education course.

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### B. Fees and Charges of Licensees

(1) A licensee may not charge or receive from a consumer, directly or indirectly, a fee except as delineated in this section. A credit counseling organization may not impose or receive fees under more than one subitem listed under subsection (2) below.

(2) The following fees may be charged based on the primary purpose of the services contracted for:

(a) If the organization receives or offers to receive funds from the consumer for the purpose of distributing the funds among the consumer's creditors in full or partial payment of the consumer's debts:

(i) an initial consultation fee, not to exceed sixty dollars;

(ii) a DMP set-up fee, not to exceed fifty dollars;

(iii) a monthly maintenance fee, not to exceed ten dollars times the number of creditors in the DMP at the time the fee is assessed, but not more than seventy dollars for each month;

(iv) a reinstatement fee, not to exceed twenty-five dollars;

(v) an additional fee for services related to the debt management plan not to exceed ten dollars per month. No fee may be charged pursuant to this subsection without prior approval from the Department.

(b) If the organization improves or offers to improve a consumer's credit record, history or rating:

(i) an initial consultation fee, not to exceed sixty dollars;

(ii) a monthly maintenance fee, not to exceed fifty dollars for each month;

(iii) a reinstatement fee, not to exceed twenty-five dollars.

(c) If the organization negotiates or offers to negotiate to defer or reduce a consumer's obligations with respect to credit extended by others:

(i) an initial consultation fee, not to exceed sixty dollars;

(ii) a monthly maintenance fee, not to exceed ten dollars times the number of creditors remaining at the time the fee is assessed, but not more than seventy dollars for each month;

(iii) a reinstatement fee, not to exceed twenty-five dollars.

(3) Upon the third dishonored payment made by a consumer to a licensee within a twelve-month period, the licensee may impose on the consumer a charge not to exceed twenty-five dollars. A licensee may not charge the same consumer more than three of these charges within the same twelve-month period.

(4) Any monies received by a person in violation of the Consumer Credit Counseling Act or Regulation 28-700 shall be returned to the payor.

(5) No person shall receive a fee from a consumer unless the fee permitted by S.C. Code Ann. Section 37-7-101 *et seq.* and/or R.28-700 is delineated in the contract and it has been established, as based on a good faith determination that the consumer will benefit from the services to be received pursuant to the contract.

### C. Continuing Professional Education

(1) Pursuant to S.C. Code Ann. Section 37-7-105, persons other than the department may seek approval to offer continuing professional education courses to licensees. Persons other than the department seeking to provide a continuing professional education course to licensees for the purpose of fulfilling the requirements of section 37-7-105 must submit a sponsor application to the department on forms prescribed by the department or, in the alternative, seek approval from the department to be deemed a professional certification organization. The application shall at a minimum include:

- (a) Applicant's name, telephone number, address, and contact person;
- (b) Description of the applicant's attendance policy, including a copy of the attendance form or document that will be kept by the sponsor to evidence attendance;
- (c) A copy of the certificate of completion to be delivered to licensees completing an approved course.

(2) Upon review of the sponsor application or request for approval as a professional certification organization, the department will either issue the applicant a certificate of approval or a letter of denial. Sponsors and professional certification organizations shall inform the department of any changes in subitems (1)(a)-(c) above within thirty days of the change.

(3) No continuing professional education course credit will be given for a course unless the sponsor has been approved by the department.

(4) Approved sponsors may submit courses for approval by the continuing professional education panel. Professional certification organizations are not required to submit individual courses for approval. To be considered for approval, the sponsor must submit a course approval application to the department on forms prescribed by the department. The application shall at a minimum include:

- (a) Course information, including course title, type, location, and continuing professional education hours requested;
- (b) Course content outline and coordinating objectives;
- (c) Instructor name, address, telephone number, and employer;
- (d) Description of the instructor's qualifications;
- (e) If a person other than the sponsor furnished, prepared and/or authored the continuing professional education course materials, written authorization permitting the sponsor to utilize the materials.

(5) Licensees who attend a course not submitted for prior approval by an approved sponsor may submit to the department the items described in subitems (4)(a)-(d) above, the certificate of completion received, and an approval application on a form prescribed by the department.

(6) Licensees that are certified by a professional certification organization may submit evidence of current certification, along with the completed form as required by S.C. Code Ann. Section 37-7-105(A), to the department to satisfy their continuing professional education requirements.

(7) The department may require that all information required by this section be submitted in electronic form.

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(8) The department may permit a licensee to receive continuing professional education credit for a course that was not approved at the time of attendance, but was subsequently approved by the continuing professional education panel.

### D. Record Keeping

(1) A credit counseling organization must maintain and preserve the following records:

(a) Any documents signed by and/or given to the consumer, including the budget analysis and contract required by sections 37-7-108 and 37-7-110;

(b) Creditor consent forms required by section 37-7-109;

(c) Trust account statements required by section 37-7-111;

(d) Name and address of the FDIC-insured institution where South Carolina consumer funds are held and the number of the account utilized;

(e) Telephone scripts and marketing materials;

(f) Contracts entered into with service providers;

(g) Consumer complaint files;

(h) Copy of the organization's records disposal and security breach notification policies utilized to maintain compliance with the South Carolina Financial Identity Fraud and Identity Theft Protection Act, S.C. Code Ann. Sections 37-20-110 *et seq.*

(2) Consumer records must be maintained and preserved for at least three years after the termination of the contract. All business records must be maintained for at least three years after the discontinuation of the account, script, marketing materials, contract, or other record for at least three years after the date of the complaint, as applicable.

(3) All books and records shall be kept current and available for examination by the department. Records and account systems maintained in whole or in part by electronic data processing may be used in lieu of the books, files and records required by S.C. Code Ann. Sections 37-7-111 and 37-7-114 if they contain equivalent information and such information is accessible to the department. Electronic duplicates of original documents may satisfy the requirements of this section.

### E. Reporting Requirements

(1) Within ten business days after the occurrence of any of the following events, a licensee shall file a written report with the department describing the event and its expected impact upon the licensee's business;

(a) The institution of a revocation, suspension, or other proceeding or action against the licensee by a governmental authority. The licensee shall advise the department within thirty days of the proceeding or action being dismissed, settled, or otherwise resolved.

(b) The institution of a civil action against the licensee. The licensee shall advise the department within thirty days of the action being dismissed, settled, or otherwise resolved.

(c) The filing of bankruptcy, reorganization, or receivership proceedings by or against the licensee.

(d) The institution of a revocation, suspension, or other proceeding by a governmental authority which is related to the licensee's credit counseling organization in any state.

(e) Felony indictments or convictions of the licensee or any of its member, partners, directors, officers, trustees, beneficiaries, or principles, if known.

(f) Any action taken by the Internal Revenue Service against a nonprofit licensee, its officers, directors, employees, agents, or other disqualified persons with respect to the organization within the meaning of Section 4958 of the Internal Revenue Code of 1986 as amended, including the imposition of penalties or excise taxes or the change, suspension, or revocation of the organization's tax exempt status.

(g) Opening a new business location within this State.

(2) If a licensee fails to make a report required by this section, the department may require the licensee to pay a late penalty of fifty dollars for each day the report is overdue.

**Fiscal Impact Statement:**

The department estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0.

**Statement of Rationale:**

The department is revising this regulation pursuant to the requirement that state agencies review its regulations every five years and update them if necessary. The amendment of this regulation modifies the fees a licensee may charge consumers for services contracted.

Document No. 4524

**SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY**

CHAPTER 37

Statutory Authority: 1976 Code Sections 23-23-10 et seq.

37-100. Suspension of Certification Due to Criminal Charges and/or Indictment.

**Synopsis:**

S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. S.C. Code §23-23-10, et seq. requires the Law Enforcement Training Council to certify and evaluate eligibility for certification of law enforcement officers in the state of South Carolina. Consistent with this authorization, the Training Council has noted some currently certified law enforcement officers are charged and/or indicted for crimes that, if they resulted in a conviction, could result in disqualification under S.C. Code §23-23-60, S.C. Regulation 38-004, and/or S.C. Regulation 38-016. Due to the potential danger posed to the public in allowing these individuals to remain actively engaged in law enforcement duties while such charges are pending, the Training Council believes this permanent regulation is necessary. This regulation was filed as an emergency regulation on August 1, 2014 at 12:30 p.m. and was also refiled as an emergency regulation pursuant to S.C. Code §1-23-130(C). The emergency regulation expired on February 1, 2015 at 1:54 p.m.

Notice of Drafting for the proposed regulation was published in the *State Register* on August 22, 2014. Proposed Regulations were published in the *State Register* on November 28, 2014. Public Hearing regarding the Proposed Regulations was held on January 28, 2015 before the Law Enforcement Training Council.



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### Section-by-Section Discussion

#### Article 5 (New)

37-100 This section deals with suspending certification when law enforcement officers are charged or indicted for crimes which, if they resulted in a conviction, could result in disqualification under S.C. Code §23-23-60, S.C. Regulation 37-025, and/or S.C. Regulation 37-026.

#### **Instructions:**

Add new regulations.

#### **Text:**

37-100. Suspension of Certification Due to Criminal Charges and/or Indictment.

A. If a law enforcement officer is charged and/or indicted for a crime that could result in disqualification under S.C. Code 23-23-60, S.C. Regulation 37-025, and/or S.C. Regulation 37-026, the officer's law enforcement certification may be suspended by the Council until the criminal charge is resolved.

B. Upon receiving notification that a law enforcement officer has been charged and/or indicted for a crime that could result in disqualification under S.C. Code 23-23-60, S.C. Regulation 37-025, and/or S.C. Regulation 37-026 and being informed the Council is suspending the law enforcement officer's certification until the criminal charge is resolved, the Academy shall notify the officer and the officer's current law enforcement employer of the suspension of the officer's law enforcement certification. This notification shall be sent by registered mail, to the current address on file at the Academy, return receipt requested, to the officer and to the current law enforcement employer. It is the responsibility of every law enforcement officer to notify the Academy of his or her current address.

C. Once the criminal charge against the law enforcement officer has been resolved, if the officer is still employed by a law enforcement agency at the time of resolution, it shall be the responsibility of the law enforcement employer to notify the Academy of the resolution of the criminal charge(s) by providing the Academy with certified copies of the Court document(s) showing the resolution of the criminal charge(s).

#### **Fiscal Impact Statement:**

There will be very little increase in costs to the Academy as the Academy already has several notification requirements in the regulations that could be joined with the requirements of this regulation. There will be great benefits brought about with this change by protecting the public from law enforcement officers that are facing charges and/or indictments for crimes that, if the officer were convicted, could result in disqualification under S.C. Code §23-23-60, S.C. Regulation 37-025, and/or S.C. Regulation 37-026.

#### **Statement of Rationale:**

Revisions to these regulations are necessary allow the automatic suspension of law enforcement certification when currently certified law enforcement officers are charged and/or indicted for crimes that, if they resulted in a conviction, could result in disqualification under S.C. Code §23-23-60, S.C. Regulation 37-025, and/or S.C. Regulation 37-026. Due to the potential danger posed to the public in allowing these individuals to remain actively engaged in law enforcement duties while such charges are pending, the Training Council believes this permanent regulation is necessary.

Document No. 4539

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

Statutory Authority: 1976 Code Sections 48-60-05 et seq.

## 61-124. Consumer Electronic Equipment Collection and Recovery

**Synopsis:**

The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act (hereafter referred to as the Act), codified at Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended, establishes requirements for the sale, prohibition of disposal, and recovery of consumer electronic devices, specifically for household computers, printers and televisions. The Act requires the Department of Health and Environmental Control (Department) to promulgate regulations to implement the provisions of the Act.

To satisfy the requirements of the Act, the Department is promulgating new Regulation 61-124, Consumer Electronic Equipment Collection and Recovery. The regulation establishes standards for labeling covered devices and for the registration of manufacturers of covered devices. The regulation establishes procedures for banning covered devices from disposal in solid waste landfills and specifies annual registration fees for manufacturers of covered electronic devices. The regulation addresses responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act, standards for the safe, environmentally responsible recovery and recycling of devices when no longer wanted by consumers and reporting requirements. The regulation also establishes fines for violations of the Act and the regulation.

A Notice of Drafting was published in the *State Register* on April 25, 2014.

**Section-by-Section Discussion of the New Regulation:**

Section A describes the purpose and scope of the regulation, lists the types of electronic devices that are subject to regulation and identifies the parties that are required to take action.

Section B defines the terms used throughout the regulation and presents the terms in alphabetical/numerical order.

Section C provides authority to the Department to conduct audits and inspections of recovery facilities and records to determine compliance with State law and the regulation.

Section D establishes labeling requirements for covered devices and clarifies the responsibilities of retailers with regards to the regulation.

Section E implements the disposal prohibition of covered devices.

Section F lists the standards for management of covered devices during the recovery process and prior to material acceptance by a consumer electronic device stewardship program or a certified recovery facility.

Section G lists the requirements for manufacturers of computers, printers, and other computer devices that are not monitors, to sell and recover devices and for payment of registration fees to the Department.

Section H lists the general recovery and registration requirements for all manufacturers of covered televisions or computer monitors that sell more than five hundred covered devices in South Carolina.

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Section I describes the reporting requirements and recovery obligations for manufactures of covered televisions and computer monitors for independent consumer devices stewardship programs not participating in a representative organization and shortfall penalties for failing to meet recovery obligations.

Section J describes the options for annual reporting for manufacturers of covered televisions and computer monitors participating in a representative organization, their exemption from annual registration fees, and the consequences for manufacturers that do not fulfill their individual recycling obligation as assigned by the representative organization.

Section K defines the requirements of a representative organization for annual reporting and for developing a plan, subject to Department approval, that provides recycling for all covered devices throughout a program year from local governments participating in the plan.

Section L describes the procedural steps and timing for evaluating consumer electronic device stewardship plans from representative organizations and fee payment requirement when the plan is approved.

Section M establishes the requirements for recoverers of covered devices in South Carolina, including requirements that they register with the Department and that they provide a financial assurance mechanism in an amount that would cover the costs for third party removal of all covered devices or waste material from the facility.

Section N sets a maximum penalty of one thousand dollars for each violation of this regulation.

Section O protects the remaining portion of the regulation should any part or language be declared invalid.

Section P states the date of the repeal of this regulation.

**Instructions:** Add R.61-124, Consumer Electronic Equipment Collection and Recovery, to Chapter 61 of the S.C. Code of State Regulations.

### **Text:**

#### **61-124. Consumer Electronic Equipment Collection and Recovery.**

Statutory Authority: 1976 Code Section 48-60-5 et seq.

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**A. Purpose and Scope; Applicability.**

1. The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act (hereafter referred to as the Act), S.C. Code Section 48-60-5 et seq., establishes requirements for the sale, management and recovery of covered electronic devices, specifically for household computers, printers, monitors and televisions. The purpose of this regulation is to execute the provisions of the Act.

2. This regulation applies to the proper management of consumer computers, printers, monitors and televisions by the manufacturers, retailers, and recoverers of these devices.

3. A manufacturer of a covered device that sells five hundred or fewer such devices in the State per year is exempt from registration, penalty, or shortfall fees proposed in this chapter. However, should a manufacturer that is exempt from registration choose to be included on the Department’s webpage list of manufacturers with compliant consumer electronic device stewardship programs, then the manufacturer shall provide details of their program for the previous year.

**B. Definitions.**

1. “Act” means the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act of 2010.

2. “Collect” or “collection” means to facilitate the delivery of a covered device to a collection site included in a manufacturer’s consumer electronic device stewardship program and to transport the covered device for recovery.

3. “A computer manufacturer” means a person who:

- a. Manufactures a covered computer device under its own brand for sale or without affixing a brand;
- b. Sells in this State a covered computer device produced by another supplier under its own brand or label;
- c. Imports covered computer devices; provided that if a company from which an importer purchases a covered computer device has a presence or assets in the United States, that company must be considered the manufacturer; or
- d. Manufactures a covered computer device, supplies a covered computer device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

4. “A computer monitor manufacturer” means a person who:

- a. Manufactures a covered computer monitor device under its own brand for sale or without affixing a brand;
- b. Sells in this State a covered computer monitor device produced by another supplier under its own brand or label;

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c. Imports covered computer monitor devices; provided that if a company from which an importer purchases a covered computer monitor device has a presence or assets in the United States, that company must be considered the manufacturer; or

d. Manufactures a covered computer monitor device, supplies a covered computer monitor device to a person within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale of a covered device through that distribution network.

5. “Consumer” means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit who has used a covered device primarily for personal or home business use.

6. “Consolidate” means to gather for transport or storage covered devices prior to delivery to a recovery or recycling facility. Consolidation programs may include, but are not limited to, local government programs, private collection networks, and other forms of collection associated with consumer electronic device stewardship programs.

7. “Covered computer device” means a desktop, laptop or notebook computer or a printing device marketed and intended for use by a consumer, but does not include a covered television device. An integrated all-in-one unit, containing both a display greater than thirteen inches, and a computer, is considered a covered computer device for the purposes of this regulation.

8. “Covered computer monitor device” means a display device typically manufactured without an internal tuner that can display pictures and sound and is designed for use with a desktop computer.

9. “Covered devices” means a covered computer device, a covered computer monitor device and a covered television device marketed and intended for use by a consumer. “Covered device,” “covered computer device,” “covered computer monitor device” and “covered television device” do not include any of the following:

a. A covered device that is a part of a motor vehicle or a component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

b. A covered device that is functionally or physically a part of, or connected to, or integrated within equipment or a system designed and intended for use in an industrial, governmental, commercial, research and development, or medical setting, including, but not limited to, diagnostic, monitoring, control or medical products as defined under the federal Food, Drug, and Cosmetic Act, or equipment used for security, sensing, monitoring, antiterrorism, or emergency services purposes or equipment designed and intended primarily for use by professional users;

c. A covered device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, air purifier, water heater, or exercise equipment;

d. Telephones of any type, including but not limited to mobile telephones, a personal digital assistant (PDA), a global positioning system (GPS), or a hand-held gaming device; or

e. A plastic, wood or composite case that once held a covered device or was a subassembly of a covered device but is void of any electronics, leaded glass or metal electronic components.

10. “Covered television device” means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, but not limited to, a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar

technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

11. "Department" means the South Carolina Department of Health and Environmental Control (DHEC).
12. "Individual Recycling Obligation" means:
  - a. The total weight in pounds of covered television and computer monitor devices that a television or computer monitor manufacturer participating in Section I is required to recycle, recover, or pay the cost for recovery, during a program year; or
  - b. The coverage obligation as determined by the representative organization for a member manufacturer pursuant to Section J to recycle, recover, or pay the cost for recovery during a program year.
13. "Manufacturer's brands" means a manufacturer's name, brand name either owned or licensed by the manufacturer, or brand logo for which the manufacturer has legal responsibility.
14. "Market share" means the total weight of a manufacturer's televisions or computer monitors that were sold at retail in the United States to individuals during the previous program year, multiplied by the population fraction of South Carolina to the United States population, based on the most recent United States Census data, divided by the weight of all of the televisions or computer monitors that were sold at retail to individuals in the State during the previous year.
15. "Printing device" means a desktop printer that prints on paper and is designed for use with a desktop or portable computer. The term includes, but is not limited to, a daisy wheel, dot matrix, inkjet or laser printer. The term includes devices that perform other functions in addition to printing such as copying, scanning or transmitting a facsimile, but does not include free-standing devices that are primarily copiers or facsimile machines used independently of desktop or portable computers. The term does not include floor-standing printers, small household printers such as a calculator with printing capabilities or label makers, or printing devices that are embedded into products that are not covered computer devices.
16. "Program year" means the calendar year.
17. "Person" means an individual, business entity, partnership, limited liability company, corporation, not-for-profit corporation, association, government entity, public benefit corporation, or public authority.
18. "Recover" means to reuse or recycle.
19. "Recoverer" means a person that reuses or recycles a covered device.
20. "Repairer" means a person or entity that primarily replaces broken or malfunctioning parts or refurbishes and upgrades covered devices primarily for resale or reuse but does not disassemble covered devices beyond their subassembly components for the purpose of recovering metals, glass or plastics.
21. "Representative organization" means an organization created to develop and oversee implementation of a statewide plan consisting of one or more consumer electronic device stewardship programs, both in the State and in other jurisdictions that authorize such a representative organization.
22. "Retail sale" means the sale of a new product through a sales outlet, the Internet, mail order or otherwise, whether or not the seller has a physical presence in this State. A retail sale includes the sale of new products.
23. "Retailer" means a person engaged in retail sales.

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24. “Sale” or “sell” means a transfer for consideration of title including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not mean leases.

25. “Shortfall fee” means a fee due to the Department from the manufacturer of a covered television device or computer monitor device that fails to achieve its individual recycling obligation for a given program year.

26. “Subassemblies” means pieces of a covered device that have been disconnected by breakage or removed during disassembly of the device. It does not refer to a keyboard, mouse, speaker or other peripheral device or to parts of covered devices that are void of any electronics, leaded glass, or metal electronic components.

27. “Television” means any electronic device that contains a tuner that locks on to a selected carrier frequency and is capable of receiving and displaying television or video programming via broadcast, cable, or satellite, including, but not limited to, a direct view or projection television with a viewable screen of nine inches or larger whose display technology is based on cathode ray tube, plasma, liquid crystal display, digital light processing, liquid crystal on silicon, silicon crystal reflective display, light emitting diode, or similar technology marketed and intended for use by a consumer primarily for personal purposes. The term does not include a covered computer device.

28. “Television manufacturer” means a person who:

- a. Manufactures covered television devices under a brand that it licenses or owns, for sale in this State;
- b. Manufactures covered television devices without affixing a brand for sale in this State;
- c. Resells into this State a covered television device under a brand it owns or licenses produced by other suppliers, including retail establishments that sell covered television devices under a brand the retailer owns or licenses;
- d. Imports covered television devices; provided that if a company from which an importer purchases a covered device has a presence or assets in the United States, that company must be considered the manufacturer;
- e. Manufactures covered television devices, supplies them to a person or persons within a distribution network that includes wholesalers or retailers in this State, and benefits from the sale in this State of those covered television devices through the distribution network; or
- f. Assumes the responsibilities and obligations of a television manufacturer under this chapter. If the television manufacturer is one who manufactures, sells, or resells under a brand it licenses, the licensor or brand owner of the brand must not be included in the definition of television manufacturer under items 28 a. or c.

### **C. Audits, Inspection and Recordkeeping.**

1. The Department or its representatives may conduct audits and inspection of covered device manufacturers, retailers and recoverers to determine compliance with State law and this regulation.
2. Records necessary to determine compliance with this regulation must be maintained for a period of not less than three years and made available for inspection by Department personnel upon request.
3. No manufacturer shall report or claim the weight of covered devices collected from consumers outside of the borders of the State for the purposes of meeting recycling obligations within the State.

**D. Manufacturer's Labels and Retailer Sale Requirements.**

1. A computer, computer monitor, or television manufacturer may not sell or offer to sell a covered device unless a label indicating the computer, computer monitor, or television manufacturer's brand is permanently affixed to the covered device in a readily visible location.

2. A retailer only may sell or offer to sell a covered device that:

- a. Bears a manufacturer label as provided in Section D. 1; and
- b. Is manufactured by a manufacturer that offers a consumer electronic device stewardship program as provided in Sections G, I or K of this regulation.

3. The requirements of this section do not apply to a television sold by a retailer for less than one hundred dollars.

4. A retailer is not responsible for an unlawful sale if the manufacturer's compliance status expired or was revoked and the retailer took possession of the covered device prior to the expiration or revocation of the manufacturer's compliance status and the unlawful sale occurred within six months after the expiration or revocation.

**E. Disposal Prohibition for Covered Devices.**

1. A consumer must not knowingly place or discard a covered device or subassemblies of a covered device containing any electronics, leaded glass or metal electronic components in a waste stream that is to be disposed of in a solid waste landfill.

2. An owner or operator of a solid waste landfill must not, at the gate, knowingly accept, for disposal, loads containing more than an incidental amount of covered devices.

3. The owner or operator of a solid waste transfer station or landfill must post, in a conspicuous location, a sign informing the public that covered devices or any components of covered devices containing any electronics, leaded glass or metal electronic components are not accepted for disposal at the landfill.

**F. Standards for Management of Covered Devices.**

1. Covered devices must be recovered in a manner that complies with all applicable federal, state, and local requirements.

2. Recovery of covered devices should be performed in a manner that utilizes consolidation and management practices of the industry, to include but not limited to:

- a. Unattended or unsecured drop-off of covered devices shall be allowed when instruction is provided to the public to prevent mishandling and breakage of covered devices;

- b. Storage areas or containers utilized for the recovery of covered devices are reasonably protected from weather with tarps or other suitable means to prevent accumulation of water within storage containers during periods of rain;

- c. Covered devices shall be handled and stored in such a way as to minimize breakage;

- d. Debris from broken covered devices shall be cleaned up immediately and managed appropriately;



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e. Covered devices shall be transported in manner that minimizes breakage and prevents contents from being ejected onto roads and highways; and

f. Shipping containers shall be labeled clearly to identify the type of material enclosed.

3. Covered devices shall not be disassembled, dismantled, shredded, transformed, or demanufactured, unless the practice provides a safer working environment for employees such as the removal of power cords and cables to prevent trips and falls, and the practice is communicated to the recoverer in advance, prior to the delivery of all the parts to a certified recoverer.

4. Residential recovery programs of local governments and manufacturer stewardship programs shall assure that all covered devices are transported to recycling or recovery facilities that are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards, or other certification program recognized by the Department or the United States Environmental Protection Agency.

5. Covered television and computer monitor devices, or subassemblies containing any electronics, leaded glass or metal electronic components of such covered devices, collected from residential recovery programs must not knowingly be placed or discarded in a waste stream that is to be disposed of in a solid waste landfill.

6. Repairers and refurbishers of covered devices are exempt from registration, reporting, and recordkeeping requirements so long as all non-reusable parts containing any electronics, leaded glass or metal electronic components are transported to recycling or recovery facilities that are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards, or other certification program recognized by the Department or the United States Environmental Protection Agency.

7. Local governments that receive recycling services from a consumer electronic device stewardship program participating in a representative organization must not charge the representative organization for collection costs and shall offer the representative organization all covered devices consolidated by a participating local government at no cost.

### **G. Requirements for Manufacturers of Computers, Printers, and other Computer Devices.**

1. A manufacturer may not sell or offer to sell in this State a covered computer device unless the manufacturer provides a consumer electronic device stewardship program at no charge or provides a financial incentive of equal or greater value, such as a coupon. A consumer electronic device stewardship program must:

a. Require a computer device manufacturer to offer to collect from a consumer a covered computer device bearing a label as provided in Section D; and

b. Make the collection service as convenient to a consumer as the purchase of a covered computer device from a computer manufacturer as follows:

(1) A computer device manufacturer may utilize a mail-back system in which a consumer can return an end-of-life covered device by mail, including a system in which a consumer can go online, print a prepaid shipping label, package the product, and affix the prepaid label to the package for deposit with the United States Postal Service or other carrier selected by the manufacturer.

(2) If the computer device manufacturer does not provide a mail-back system, the manufacturer must provide collection sites or collection events, or both, that are centrally located in a county, region, or other locations based on population. Manufacturers of computer devices shall work in coordination with the Department to determine an appropriate number of collection sites or collection events, or both.

2. At the beginning of each program year and no later than February 15 of a program year, a manufacturer of a computer device that sells more than five hundred devices in the State per year, must register with the Department and pay a registration fee in the amount as prescribed by the Act.

3. A consumer electronic device stewardship program may use existing consolidation infrastructure for recovering covered devices, including retailers, recyclers, reuse organizations, private networks and local governments.

4. Manufacturers of computer devices may work collectively and cooperatively with other manufacturers to offer collection services to consumers.

5. A consumer electronic device stewardship program must be described on a computer device manufacturer's Internet website if a manufacturer maintains an Internet website.

6. Collection events under this section must accept any covered computer device regardless of brand.

#### **H. Requirements for Manufacturers of Covered Televisions or Computer Monitors.**

1. No television manufacturer or computer monitor manufacturer shall sell or offer for sale a covered television device or covered computer monitor device in this State unless the television manufacturer or computer monitor manufacturer provides a consumer electronic device stewardship program at no charge or provides a financial incentive of equal or greater value, such as a coupon.

2. A television manufacturer or computer monitor manufacturer may fulfill the requirements of this regulation either individually or in participation with other manufacturers, or through a representative organization. A consumer electronic device stewardship program may use existing consolidation infrastructure for recovering covered television or covered computer monitor devices, including retailers, recyclers, reuse organizations, private networks and local governments.

3. By January 1, 2015, and by February 15, annually thereafter, a television manufacturer or computer monitor manufacturer that sold more than five hundred covered devices in South Carolina during the prior calendar year shall register with the Department. The manufacturer shall:

a. Notify the Department that they intend to participate in a representative organization and identify the representative organization they will join for the program year, or notify the Department of its intent to fulfill its obligations under this chapter by implementing their own consumer electronic device stewardship program that meets the requirements of Section I of this regulation.

b. Provide the Department with contact information for the manufacturer's designated agent or employee whom the Department may contact for information related to the manufacturer's compliance with the requirements of this regulation.

#### **I. Consumer Electronic Device Stewardship Programs for Manufacturers Not Participating in a Representative Organization.**

1. If a television or computer monitor manufacturer does not participate in a representative organization, the manufacturer annually shall recycle or arrange for the recycling of covered television devices and covered computer monitor devices in the amount of eighty percent of the weight of the covered devices sold by the manufacturer in the State during the previous program year.

2. A manufacturer shall pay an annual registration fee in the amount as prescribed by the Act. A manufacturer that produces computer monitors, computers, or televisions is required to pay only one annual registration fee, unless exempt from fees as described in Section A.4 of this regulation. Upon registration the manufacturer shall

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provide the Department with a statement that all recycling or recovery facilities used by their recoverers as part of their South Carolina consumer electronic device stewardship program are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards or other certification program recognized by the Department or the United States Environmental Protection Agency.

3. By February 15 of each program year, a television or computer monitor manufacturer shall submit an annual report to the Department. The annual report shall include:

a. The estimated total weight of the manufacturer's covered television devices or covered computer monitor devices sold at retail in the United States or in this State, if the information is available, for the previous program year;

b. The total weight of covered devices collected and recycled and listed by county of the State during the previous program year;

c. Any recovered weight exceedance credits earned, redeemed, sold or purchased from other manufacturers in the previous year along with the names of those manufacturers, the county of origin for the material, and dates of transactions.

4. Recovery exceedance credits may be earned by exceeding the individual recycling obligation for the program year. A manufacturer may also notify the Department of their intent to sell or transfer exceedance credits of recovery to another manufacturer along with the weight and county of origin from which the covered devices were consolidated. Exceedance credits earned for a program year shall be valid for three years.

5. The year-to-date recovery amounts for material recovered state-wide shall be readily available for Department review during the program year and at most quarterly and within thirty days of request by the Department.

6. A manufacturer of a covered television device or covered computer monitor device with a consumer electronic device stewardship program pursuant to Section I that fails to meet its individual recycling obligation for the previous program year as outlined in this regulation may elect to:

a. Pay a shortfall fee as determined by the Department; or

b. Account for the amount of the shortfall in the following year. A manufacturer electing to account for the amount of a shortfall in the following year only may elect this option once every three years.

7. The shortfall fee for manufacturers not participating in a representative organization is calculated as follows:

a. If the manufacturer of a covered television or computer monitor device recycles at least ninety percent, but less than one hundred percent of its individual recycling obligation, the shortfall fee is thirty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

b. If the manufacturer of a covered television or computer monitor device recycles at least fifty percent, but less than ninety percent of its individual recycling obligation, the shortfall fee is forty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

c. If the manufacturer of a covered television or computer monitor device recycles less than fifty percent of its individual recycling obligation, the shortfall fee is fifty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

**J. Responsibilities of Manufacturers Participating in a Representative Organization.**

1. No later than February 15 each program year, a television or computer monitor manufacturer participating in a representative organization shall submit to the Department an annual report unless a representative organization will report on behalf of the manufacturer. The report shall include, but not be limited to, the following:

a. The best available market share data for participating manufacturers available on September 1 of the previous year;

b. The estimated total weight of the manufacturer's covered television devices or covered computer monitor devices sold at retail in the United States or in this State, if the information is available, for the previous program year;

c. The total weight of covered devices collected and recycled, listed by county of origin during the previous program year;

d. A statement of assurance that all recycling or recovery facilities used by the manufacturer as part of their consumer electronic device stewardship program are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards or other certification program recognized by the Department or the United States Environmental Protection Agency; and

e. A description of any individual recycling obligation for which the participating manufacturer was deficient in the previous year.

2. A manufacturer that participates in an approved representative organization is not required to pay an annual registration fee to the Department for the program year of participation with the representative organization.

3. A manufacturer that fails to meet an individual recycling obligation as assigned by a representative organization shall either submit a plan for increasing the recycling obligation in the coming year by the amount of the deficiency or pay a shortfall fee based on the shortfall as calculated by the representative organization for the previous program year. A manufacturer may elect to account for the shortfall in the next program year but only may elect this option once every three years.

4. The shortfall fee for manufacturers participating in a representative organization is calculated as follows:

a. If the manufacturer of a covered television or computer monitor device fulfills at least ninety percent, but less than one hundred percent of its individual recycling obligation, the shortfall fee is thirty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

b. If the manufacturer of a covered television or computer monitor device fulfills at least fifty percent, but less than ninety percent of its individual recycling obligation, the shortfall fee is forty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

c. If the manufacturer of a covered television or computer monitor device fulfills less than fifty percent of its individual recycling obligation, the shortfall fee is fifty cents multiplied by the number of additional pounds that should have been recycled in order for the manufacturer to have met its individual recycling obligation.

5. A television manufacturer or computer monitor manufacturer participating in a representative organization with an approved consumer electronic device stewardship program that falls below seventy-five percent of its obligation, as determined by a representative organization at the end of the program year, is ineligible to

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participate in the consumer electronic device stewardship program the following year and shall implement a consumer electronic device stewardship program as described in Section I.

6. Any manufacturer that is denied participation in a representative organization shall implement a consumer electronic device stewardship program as described in Section I.

### **K. Requirements for Representative Organizations.**

1. By February 15 of each year, the representative organization shall submit the final roster of manufacturers, local governments, private networks and participating companies for the program year with any deletions, additions, and updates from previously approved plans summarized for Department review.

2. By February 15 of each year, the representative organization shall submit a final report summarizing the activities of the previous program year for all of the manufacturers and private collection networks participating in the representative organization unless the members of the representative organization opt to provide annual reports individually. The report shall include:

a. A description of the methods used to collect, transport, and process covered devices from residential consumers in the State;

b. The results of a survey of county and municipal recycling representatives concerning the availability of opportunities for consumers to recycle covered electronic devices;

c. An accounting of the weight of covered devices collected, reported by county of origin for consolidation, including the weight of covered television and computer monitor devices contributed through all sources, including private collection networks;

d. A description of services provided to each of the local government participants including, but not limited to, collection event services and the number and location of collection locations used during the prior year, and logistical support for preparing the consolidated devices for transportation offsite;

e. A list of manufacturers, as determined by the representative organization, failing to meet their recycling obligation as assigned by the representative organization and any shortfall penalties, pursuant to Section 48-60-160 of the Act. The report shall summarize the contributions of each manufacturer participating in the plan. Any participants that failed to meet their obligations shall be listed in the final report along with any shortfall as calculated by the representative organization, or any expulsions from the plan for manufacturers that contributed less than seventy-five percent of their obligation; and

f. A description of services in counties with three percent or less of the total population of the State. If the services provided within these jurisdictions is disproportionate to the other services provided for counties with populations above three percent of the State's total population, the representative organization must provide the Department an explanation of these differences.

3. Not later than October 1 of each year, a representative organization shall submit an annual plan for a consumer electronic device stewardship program. The plan shall:

a. List the local governments for which ongoing collection services will be provided. In determining the number and composition of local governments to include in the plan, the representative organization shall target a percentage of the State population that is approximately equal to the combined market share percentage of all of the manufacturers participating in the representative organization. The Department may consider a local government's election to either participate or not participate in a consumer electronic device stewardship program, and any other circumstances or factors the representative organization provides regarding their determination of the appropriate State population percentage and counties to be serviced for the program year;

b. Provide a description of incentives to ensure convenient mechanisms to collect used consumer electronic devices throughout the State. These incentives may include private collection networks and a description of how they lessen the burden and expense for local government collection and increase recycling opportunities by providing additional convenience to consumers across the State. The Department may consider the regional coverage, volume of historical collection from private networks, and the projected success of new private collection networks during plan evaluation;

c. Describe projected collection events, if any, that will be used to augment collection in a. or b. above, to increase recycling opportunities and provide additional convenience to consumers in less populated counties;

d. Describe specifically the elements of the plan that provide service to counties with less than three percent of the State's population and to counties with less than one percent of the State's population;

e. Calculate the sum total of weight from all sources of consumer covered television and computer monitor devices encompassed in the plan for the previous program year and the projected weight from new sources in the plan to illustrate the scale of projected recycling activities anticipated by participating manufacturers in the new program year;

f. Address how its members will ensure continuous service to local governments and other sources specified in the annual plan, throughout the program year, to recover all covered television and computer monitor devices of the participants in the plan; and

g. Establish fair and reasonable policies for administration of the plan.

4. The plan shall include:

a. A point of contact for the organization, including email and phone number;

b. An identification of each manufacturer participating in the consumer electronic device stewardship program included in the representative organization plan and the brands of consumer electronic devices sold in the State that are covered by the program;

c. An identification of each local government participating in the consumer electronic device stewardship program included in the representative organization plan, including a list of projected consolidation locations and projected collection events to be made available to consumers and the phone number and email address for the principal person to contact for the local government;

d. An identification of each private collection network participating in the consumer electronic device stewardship program along with the historic data of television devices and monitor devices consolidated by each private network in the previous program year, and a list of projected consolidation locations and projected collection events to be made available to consumers, along with the phone number and email address for the principal person to contact for the private collection network;

e. A description of how collection service to be provided to local residents by any private consolidator or private network included in the plan supplement and relieve collection and recycling burden of local governments through a level of service that may approach or be equivalent to service provided by local governments;

f. A description of how the organization will provide consumers with information and educational materials regarding the consumer electronic device stewardship program to promote the recycling and reuse of covered television devices and covered computer monitor devices;

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g. A description of how the organization will achieve environmentally sound management for covered television devices and covered computer monitor devices that are collected for reuse and recycling;

h. A description of the participation requirements for manufacturers, and penalties for failure to comply with the plan, including the process for excluding manufacturers from participating in the organization;

i. Documentation of how the collection component of the plan was developed with input from local government recycling representatives and other stakeholders;

j. A description of incentives and directives to ensure convenient mechanisms to collect covered devices from consumers throughout the state and throughout the program year;

k. Provide a statement that all recycling or recovery facilities used by their member manufacturers' recoverers as part of their South Carolina consumer electronic device stewardship program are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards or other certification program recognized by the Department or the United States Environmental Protection Agency;

l. An explanation of why a disruption of commercial activity that may arise from implementation of the plan is consistent with fulfilling the intent of this regulation and provide sufficient information to allow the Department to confirm the consistency of the plan with this regulation by review of the plan's financial and operational elements; and, if applicable,

m. A summary of any corrections or additions made to the final report for the previous program year.

5. A representative organization shall be prepared to confer with the Department and local government stakeholders involved in the representative organization plan at least quarterly to address compliance, efficiency, and management practices for implementing the representative organization's plan, and to report year-to-date recovery amounts, at most quarterly, to the Department within thirty days of such request.

### **L. Representative Organization Plan Approvals and Implementation.**

1. Not later than thirty calendar days after submission of the plan pursuant to Section K, the Department shall approve the plan for the establishment of a consumer electronic device stewardship program by the submitting representative organization if it meets the requirements of Section K.

2. If the Department finds activities included in the plan that do not fulfill those requirements, it shall specify in writing what the Department believes to be the plan's deficiencies, promptly meet with the representative organization to discuss the Department's concerns, and allow the representative organization at least thirty days after the denial notice to submit a revised plan. If a revised plan is submitted, the Department shall review and approve or disapprove the plan within thirty calendar days of submission.

3. Upon approval of a representative organization plan by the Department, a representative organization shall pay a registration fee in the amount as prescribed by the Act.

### **M. Recoverer Requirements.**

1. Covered devices must be managed in a manner that complies with all federal, state, and local requirements, and shall not be stored for more than one year at a facility.

2. No recoverer shall accept covered devices unless the recoverer can document they are currently certified by an acceptable program such as Responsible Recycling (R)(2) Practices, e-Stewards, or other certification program recognized by the Department or the United States Environmental Protection Agency.

3. All recoverers must maintain records of the weight and county of origin of the covered devices they accept for recycling. This information must be provided to the Department in a report no later than February 15 of each program year.

4. All recoverers that store, consolidate or process covered devices in the State, must register with the Department the locations of all storage and processing activities.

5. Recoverers shall comply with the following registration requirements:

a. The registrant must provide the Department with the address of the processing or storage location(s) along with a contact name, phone number, and e-mail address.

b. A recoverer must provide, for each storage, consolidation, or processing location, adequate financial assurance to cover third party removal of all covered devices or waste material from the facility.

c. The financial assurance shall be issued in favor of the Department and shall consist of one or more of the following mechanisms: surety bond, irrevocable letter of credit, insurance, trust fund, corporate financial test, or other evidence of financial responsibility assurance approved by the Department.

d. The financial mechanism(s) and amount must be approved by the Department and the approved financial assurance mechanism submitted prior to beginning storage or processing operations.

e. The registrant shall provide continuous coverage for closure until released from financial assurance requirements by the Department.

f. Upon closing the storage, consolidation, or processing facility, the registrant shall request that the Department inspect the facility to ensure removal of all covered devices and waste. Upon Department approval, the registrant shall be released from financial assurance requirements.

**N. Violations and Penalties.** Any person who fails to comply with a requirement of S.C. Code Section 48-60-05 et seq. is subject to a civil penalty not to exceed one thousand dollars per violation.

**O. Severability.** Should any section, paragraph, sentence, word, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

**P. Repeal of Regulation.** This regulation, except for the provisions of Section E, shall be repealed effective December 31, 2021.

**Fiscal Impact Statement:**

There will be no cost to the State General Fund. Staff anticipates that there will be minimal cost to the Department for the one full-time equivalent staff position necessary to implement the provisions of the Act; however, these costs will be funded from the registration and annual renewal fees paid by the manufacturers of covered television and computer devices, in accordance with the regulation and as allowed by the Act. Additional costs to State government are not anticipated. Costs to local governments for the diversion of covered devices from the waste stream as required by the Act would be offset in part by grant funding made available by the Department from the registration and shortfall fees implemented, as allowed by the regulation and statute. Recoverers will provide financial assurance for storage, consolidation or processing facilities through one or more of the mechanisms listed in the regulation and approved by the Department.



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### Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: New regulation, Consumer Electronic Equipment Collection and Recovery.

Purpose: The purpose of this regulation is to address and execute the applicable provisions of Act 178, known as the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act (hereafter referred to as the Act), codified at Section 48-60-05 et seq., S.C. Code of Laws, 1976, as amended.

The regulation will include, but not be limited to: responsibilities of manufacturers and retailers of covered electronic devices as defined by the Act; standards for the collection and use of fees as provided for in the Act; standards for the safe, environmentally responsible recovery and recycling of discarded devices; a disposal prohibition for covered devices; and reporting requirements for manufacturers of covered devices and recoverers that reclaim materials from covered devices. The regulation will also establish fines for violations of the Act and the regulation. The regulation requires legislative review and will not take effect until published as a Final Regulation in the *State Register*. The regulation will also have a repeal date of December 31, 2021 as prescribed in the Act.

Legal Authority: Section 48-60-5 et seq., S.C. Code of Laws, 1976, as amended.

Plan for Implementation: Upon approval of the General Assembly and publication in the South Carolina State Register, a copy of the regulation will be available electronically on the Department's Laws and Regulations website under the Land and Waste Management category at: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/>. Subsequently, a copy of the regulation will be published in the S.C. Code of Regulations on the S.C. Legislature Online website. Printed copies will be available for a fee from the Department's Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation. The landfill ban on covered electronic devices will be implemented in the same fashion as other banned items. Manufacturers of covered devices with websites may also provide details of their consumer electronic device stewardship program on the internet. Staffing will consist of existing personnel and one new staff position as provided for in the regulation.

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

The need for this regulation is stated in the South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act of 2010. The General Assembly found that:

- (1) Televisions, computing, and printing devices are critical to the development of this state's economy and the promotion of the quality of life of the citizens of this State.
- (2) Many of these televisions, computing, and printing devices can be refurbished and reused, or recycled.
- (3) Developing and implementing a system for recovering televisions, computing, and printing devices promotes resource conservation, public health, public safety, and economic prosperity.
- (4) In order to carry out these purposes, the State must establish a comprehensive and convenient recovery program for televisions, computing, and printing devices based on individual manufacturer responsibility and

shared responsibility among consumers, retailers, and government, and that the program must ensure that end-of-life televisions, computing, and printing devices are disposed of in a manner that promote resource conservation through the development of an effective and efficient system for collection and recycling, and to encourage manufacturers to offer convenient collection and recycling service to consumers at no charge.

This regulation is a reasonable way to comply with the Act because it can be implemented using staff allowed by the Act without impact to the general fund; provides clear procedures, standards and criteria for manufacturers, retailers and recyclers of covered electronic devices; promotes the development of a comprehensive system for end-of-life devices that promotes resource conservation, public health, public safety, and economic prosperity; and establishes a recovery program based on shared responsibility among manufacturers, consumers, retailers, and government.

#### DETERMINATION OF COSTS AND BENEFITS:

**Internal Costs:** Implementation of this regulation should not require additional resources beyond those allowed for in the Act. The Act states that the Department may charge a fee of three thousand five hundred dollars for manufacturers with independent consumer electronic devices stewardship programs or a twenty thousand dollar annual fee for manufacturers recycling cooperatively as a Department approved representative organization. The proceeds of fees is to be used solely for the purposes of implementing the provisions of the Act.

**External Costs:** There will be a cost to the manufacturers of covered devices as allowable by the Act. Costs include recycling expenses for end-of-life electronic devices collected from residents, and fees established by statute and addressed in the regulation. Fees include annual registration fees and shortfall fees. Registration fees and shortfall fees are set out in the regulation at Sections I.2, I.7, J.4, and L.3. There will be costs to local governments for collection, consolidation and preparation of material prior to delivery to manufacturer sponsored recycling programs. Recoverers will provide financial assurance for storage, consolidation or processing facilities through one or more of the mechanisms listed in the regulation and approved by the Department.

**External benefits:** There will be a benefit to the manufacturers, users and recyclers of electronic devices, as well as to local governments, as the responsibility associated with the proper management of the end-of-life devices will be shared among all parties. There will be reduced costs to local governments as manufacturers will provide recycling costs for end-of-life devices. It will benefit the residents of South Carolina as the proper management of electronics should result in reducing the potential threats to the quality of ground water and to worker safety. It will benefit the economy by promoting the electronics recycling industry and promoting resource conservation.

#### UNCERTAINTIES OF ESTIMATES:

None.

#### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There should be no adverse effect on the environment. The regulation promotes the public health by ensuring electronic devices are recycled in a safe, environmentally sound manner, and not placed in landfills.

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

The Act established a ban on the placement of covered electronics in a landfill, but without clear standards for the proper management of covered devices as established in the regulation, there would be limited options for properly managing used electronics. This could result in the improper and illegal disposal of the items in a manner that would be unsafe to workers and could result in harmful releases to the environment.

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### Statement of Rationale:

The South Carolina Manufacturer Responsibility and Consumer Convenience Information Technology Equipment Collection and Recovery Act, Section 48-60-150 et seq., S.C. Code of Laws, 1976, as amended, directs Department staff to promulgate regulations needed to implement the chapter's provisions, including reporting requirements and standards for operations of recovery facilities, and provides by statute annual fees on the manufacturers of covered computer and television devices. The regulation ensures that recovery efforts are provided statewide and not limited to more populated regions.

A workgroup comprised of representatives of local government, electronics manufacturers, electronics recyclers, retailers, environmental groups, the Association of Counties, the South Carolina Municipal Association, the waste industry and Department staff developed the criteria on which the regulation is based.

Document No. 4533  
**COMMISSION ON HIGHER EDUCATION**  
CHAPTER 62  
Statutory Authority: 1976 Code Section 59-114-75

62-250 through 62-263. South Carolina National Guard College Assistance Program

### Synopsis:

The South Carolina Commission on Higher Education Regulation 62-250 through 62-263 governs requirements for the operation and administration of the South Carolina National Guard College Assistance Program under SC Code of Laws, Section 59-114-10 et seq. The program is administered by the Commission in coordination with the South Carolina National Guard and provides tuition assistance for eligible enlisted guard members enrolled in undergraduate programs. Amendments to the existing regulation incorporate changes enacted by Act 151 of 2014 effective April 7, 2014. These amendments include: 1) clarification that each academic year's annual maximum grant must be based on the amount of available program funds; 2) a change in qualification such that a SC National Guard Member becomes qualified for program funding upon completion of Basic Training and Advanced Individual Training rather than upon enlistment; and 3) codification of a budget proviso enabling appropriations to the SC National Guard College Assistance Program are to be carried forward to a subsequent fiscal year and expended for the same purpose, and to be exempted from any midyear budget reductions. The amended regulation incorporates these changes and further clarifies procedures for administration of the program.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on June 27, 2014.

### Instructions:

The following Regulations 62-250 through 62-263 are modified as provided below.

### Text:

Table of Contents:

- 62-250. Purpose of the South Carolina National Guard College Assistance Program
- 62-251. Program Definitions
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- 62-253. College Assistance Program Terms of Eligibility (Student Eligibility)
- 62-254. Participant Application Process and Continued Eligibility

- 62-255. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs
- 62-256. Military Mobilization
- 62-257. Appeals Procedures
- 62-258. Institutional Policies and Procedures for Awarding
- 62-259. Benefits Disbursement and Reimbursements
- 62-260. Program Administration and Audits
- 62-261. Suspension or Termination of Institutional Participation
- 62-262. Funding

62-250. Purpose of the South Carolina National Guard College Assistance Program

Pursuant to Act 40 of 2007, the Commission on Higher Education shall develop a college assistance program for providing incentives for enlisting or remaining for a specified time in both the South Carolina Army and Air National Guard. The Commission on Higher Education, along with the South Carolina National Guard, shall promulgate regulation and establish procedures to administer the South Carolina National Guard College Assistance Program. These South Carolina National Guard College Assistance Program benefits will cover the cost of attendance as defined by Title IV regulation, up to a maximum amount each award year. The maximum amount will be made annually and detailed in established procedures to be administered by the Commission on Higher Education.

62-251. Program Definitions

A. The “Academic Year” shall be defined as the beginning twelve month period as defined by the institution for the awarding of financial aid to a student and which includes regular terms (fall, spring, or trimester) or other terms (summer and other) in any combination.

B. “College assistance program” means the South Carolina National Guard college assistance program.

C. “Commission” means the South Carolina Commission on Higher Education.

D. “Eligible institution” means:

(1) a public institution of higher learning as defined in Section 59-103-5 and an independent institution of higher learning as defined in Section 59-113-50; and

(2) a public or independent bachelor's level institution chartered before 1962 whose major campus and headquarters are located within South Carolina; or an independent bachelor's level institution which was incorporated in its original charter in 1962, was granted a license to operate in 1997 by the Commission on Higher Education, has continued to maintain a campus in South Carolina, and is accredited by the Southern Association of Colleges and Secondary Schools. Institutions whose sole purpose is religious or theological training or the granting of professional degrees do not meet the definition of “public or independent institution” for purposes of this chapter.

E. “National Guard” means South Carolina Army or Air National Guard.

F. “Cost of Attendance” is defined as “tuition and fees” charged for registering for credit hours of instruction, costs of textbooks, and other fees and costs associated with attendance at an eligible institution in accordance with Title IV Regulations.

G. “Degree-seeking student” is defined as any student enrolled in an eligible institution which leads to the first one-year certificate, first two-year program or associate’s degree, or first bachelor’s, or a program of study that is structured so as not to require a bachelor’s degree for acceptance into the program (and leads to a graduate degree).

H. “Eligible program of study” is defined as a program of study leading to:

(1) at least a one-year educational program that leads to the first certificate or other recognized educational credential (e.g., diploma) as defined by the U.S. Department of Education for participation in federally funded financial aid programs and prepares students for gainful employment in recognized occupations;

(2) the first associate’s degree;

(3) at least a two-year program that is acceptable for full credit towards the first bachelor’s degree; or

(4) the first bachelor’s degree.

I. “Full-time student” shall mean a student who has matriculated into an eligible program of study and who enrolls full-time, usually 12 credit hours for fall and spring terms.

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J. "Less-than full-time student" shall mean a student who has matriculated into an eligible program of study and who enrolls part-time, e.g., usually fewer than 12 credit hours, for the fall and spring terms.

K. "Military mobilization" is defined as a situation in which the U.S. Department of Defense orders members of the United States Armed Forces to active duty away from their normal duty assignment during a time of war or national emergency, or as determined by the South Carolina Military Department.

L. "Remedial/developmental coursework" shall mean sub-collegiate level preparatory courses in English, mathematics, reading and any courses classified as remedial by the institution where the course is taken.

M. "Transfer student" shall be defined as a student who has changed enrollment from one institution to an eligible institution.

N. "Home institution" shall mean the institution where the student is currently enrolled as a degree seeking student and may be eligible for financial aid at the same institution.

O. "Satisfactory academic progress" shall be defined as the academic progress as required by the institution in which the student is enrolled as a degree-seeking student for Title IV financial aid eligibility.

P. "Attempted hours" include all enrolled semester hours or related quarter hours, whether passed or not, and does not include those hours dropped or withdrawn in accordance with institutional drop-add policies.

### 62-252. Program Benefits and Maximum Assistance

A. Qualifying members of the National Guard may receive college assistance program benefits up to an amount equal to one hundred percent of college cost of attendance, provided, however, these college assistance program benefits in combination with all other grants and scholarships shall not exceed the cost of attendance at the particular eligible institution in any given award year; and the cumulative total of all college assistance program benefits received may not exceed eighteen thousand dollars.

(1) These college assistance program benefits cover the cost of attendance; however, the benefit maximum per award year may be reduced if, in combination with other financial aid, the cumulative total of all aid received would exceed the cost of attendance.

(2) The annual maximum grant will be determined prior to the beginning of each academic year based on the amount of available program funds.

(3) Disbursements of this grant will typically be paid in two (fall semester, spring semester, or its equivalent) equal disbursements. Any remaining funds can be used in any sequential terms prior to annual expiration date. If the recipient is in his/her final semester of enrollment as required for degree completion, the recipient may receive up to the full annual benefit in the final semester.

B. A member shall not qualify for college assistance program benefits for more than one hundred thirty attempted hours from the time of initial eligibility into the college assistance program.

(1) The award will be prorated so that a student's funded hours shall not exceed 130 attempted hours from the time of initial eligibility.

(2) A student will not be penalized toward the maximum one-hundred-thirty attempted hours for which the student enrolled but withdraws in accordance to institutional drop-add policies.

C. Students may not receive college assistance benefits upon completion of an eligible program to pursue an eligible program of study in the same or preceding level.

D. Students who have been awarded a bachelor's or graduate degree are not eligible for the College Assistance Program benefit.

E. Students may not receive college assistance benefits at more than one institution during the same term. Where students are enrolled in more than one institution during a semester, the benefit will be received at the student's home institution.

F. College assistance benefits must not be awarded for graduate degree courses.

G. Less than full-time students may receive college assistance program benefits.

(1) Awards for less than full-time students cannot exceed the cost of attendance.

(2) College assistance program benefits will be prorated for less than full-time enrolled students. The prorated method (based on semester calculation) will be based on the Pell Grant model ( $\frac{3}{4}$  time;  $\frac{1}{2}$  time; less than  $\frac{1}{2}$  time to include  $\frac{1}{4}$  and less than  $\frac{1}{4}$  time) of the recipient's full time award value.

H. College assistance program benefits may not be applied to the cost of continuing education or graduate coursework.

I. A Guard member who qualifies under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in “Program Benefits and Maximum Assistance” Sections except for the full-time enrollment requirement, if approved by the Disability Services Provider at the home institution. A Guard member must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973. It is the responsibility of the Guard member to provide written documentation concerning services from the institutional Disability Services Provider. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid prior to each academic year verifying that the student is approved to be enrolled in less than full-time status. The institution is responsible for retaining appropriate documentation according to the “Institutional Policies and Procedures for Awarding” Section.

J. Remedial/developmental or non-degree attempted hours shall be used toward the National Guard member’s 130 attempted hours.

#### 62-253. College Assistance Program Terms of Eligibility (Student Eligibility)

A. Members of the National Guard enrolled or planning to enroll in an eligible institution may apply to the National Guard for a college assistance program benefit.

B. College assistance program benefits may be applied by giving priority to service members in areas of critical need. The National Guard will determine areas of critical need.

C. To qualify, an applicant must:

(1) be in good standing with the active National Guard at the beginning of each academic year and remain a member in good standing with the active National Guard throughout the entire academic year for which benefits are payable;

(2) have valid tuition and fee expenses from an eligible institution;

(3) maintain satisfactory academic progress as defined by the institution;

(4) be a U.S. citizen or a legal permanent resident who meets the definition of an eligible non-citizen under State Residency Statutes;

(5) be admitted, enrolled and classified as a degree-seeking full-time or part-time student at an eligible institution in South Carolina; and

(6) satisfy additional eligibility requirements as may be promulgated by the Commission.

D. Individuals joining the National Guard become eligible for college assistance program benefits upon completion of Basic Combat Training (BCT)/Basic Military Training (BMT) and Advanced Individual Training (AIT)/Technical Training for sequential regular terms (fall, spring, or trimester) or other terms (summer and other).

E. Enlisted personnel must continue their service in the National Guard during all terms of courses covered by the benefit received. Officers shall continue their service with the National Guard for at least four years after completion of the most recent award or degree completion.

F. National Guard members receiving a full Reserve Officer's Training Corps (ROTC) scholarship are not eligible for college assistance program benefits.

#### 62-254. Participant Application Process and Continued Eligibility

A. New applications must be completed and submitted each year prior to the beginning of the fall term of the academic year by the deadline determined by the National Guard.

(1) The application is to be submitted to the National Guard and must include information identifying the student’s home institution and intent to enroll at the institution in the upcoming year.

(2) Guard members who intend to enroll only for the spring and/or summer semester must also complete a new application prior to the fall term of each academic year by the established deadline determined by the National Guard.

(3) The National Guard shall determine eligibility for the college assistance program.

(4) Once eligibility has been determined by the National Guard, all documents must be initiated and submitted by the student to the institution.

B. Currently enrolled members must have applied prior to the beginning of the fall term of each academic year by the National Guard established deadline and should contact their college’s financial aid office to initiate

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benefit award for the current academic year. The financial aid office will coordinate with the Commission to verify student eligibility and coordinate payment to the college or university on behalf of the student member.

C. For continued eligibility, students must apply prior to the beginning of the fall term of each academic year by the established deadline as determined by the National Guard, continue to meet all eligibility requirements as stated in the Section 62-253, College Assistance Program Terms of Eligibility (Student Eligibility).

D. Transfer students who are eligible prior to the beginning of the academic year for college assistance program and who transfer mid-year to another eligible institution may be eligible to receive the assistance for the spring term if they continue to meet eligibility requirements.

### 62-255. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs

A. Students enrolled in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit are eligible to receive the college assistance program benefit during the period in which the student is enrolled in such programs. Students will be required to meet the continued eligibility requirements.

### 62-256. Military Mobilization

A. Service members who are enrolled in college and during which affected by military mobilizations will not be penalized for the term they are required to withdraw after the full refund period based on institutional policies and procedures. Institutions are strongly encouraged to provide a full refund of required tuition, fees and other institutional charges or to provide a credit in a comparable amount against future charges for students who are forced to withdraw as a result of military mobilization. The service member must re-enroll in an eligible institution within twelve months upon demobilization and provide official documentation to verify military deployment to the institutional Financial Aid Office upon re-enrollment. Reinstatement will be based upon the service member's eligibility at the time he/she was mobilized. If the student re-enrolls after the twelve month period, the service member must submit an appeal application per the established procedures of the Office of the Adjutant General to the Office of the Adjutant General by the established deadline in order to be considered for reinstatement.

B. Service members who are enrolled in college and are mobilized for an entire academic year may renew the scholarship for the next academic year, if they met the eligibility requirements at the end of the prior academic year. Service members who did not use the college assistance program benefits/terms of eligibility during this period due to military mobilization shall be allowed to receive the college assistance benefits during the succeeding term.

C. The home institution will be responsible for receiving verification of military mobilization status, from the National Guard, attempted semester hours, credit hours earned, and eligibility for benefit renewal for the next academic year.

D. Service members of the United States Armed Forces will not be penalized for any credit hours earned while on military mobilization. The credit hours earned will be used toward the maximum credit hour requirement for the college assistance program.

### 62-257. Appeals Procedures

A. Students may appeal an adverse determination as to the awarding or continuation of the college assistance program benefit to the Office of the Adjutant General.

B. The Adjutant General shall devise procedures addressing student appeals to provide students an opportunity to submit documentation for a second review and determination of award.

### 62-258. Institutional Policies and Procedures for Awarding

A. Each institution is responsible for reviewing all students based on the "Eligibility Requirements/Satisfactory Academic Progress" to determine eligibility for college assistance program benefits.

B. College assistance program awards are to be used only for payment toward the cost-of-attendance as established by Title IV Regulations. The college assistance program in combination with all other gift aid,

including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV regulations for any academic year.

C. Institutions will notify students of any adjustments in the college assistance program benefit funds that may result from an over award, change in eligibility, or change in financial status or other matters.

D. The institution must retain annual paper or electronic documentation for each award to include at a minimum:

- (1) Award notification
- (2) Institutional disbursement to student
- (3) Refunds and repayments (if appropriate)
- (4) Enrollment and curriculum requirements
- (5) Verification of required number of annual credit hours based on that (s)he is within the eligible 130 attempted hours from the time of initial eligibility of the program.
- (6) Military mobilization orders (if appropriate)

E. The National Guard shall be responsible for providing a list of all eligible Guard members to the Commission on Higher Education, which in turn shall provide this list to all the eligible institutions. Only Guard Members who are on the list shall be awarded the college assistance program benefits.

F. Eligible participant lists will be accessed through the Commission portal (via log-on/password); eligibility will reflect assurance that the student is eligible for the annual maximum unless otherwise noted.

G. The college assistance program awards are to be used to meet unmet need or to replace any loans or work-study up to the student's cost-of-attendance.

H. The home institution will be responsible for obtaining official certification of the student's grade point average, attempted semester hours, credit hours earned, and satisfactory academic progress for the purposes of determining student eligibility for the college assistance program benefit and renewal in subsequent academic years.

#### 62-259. Benefits Disbursement and Reimbursements

A. The Commission shall disburse benefits awarded pursuant to this chapter to the eligible institutions to be placed in an account established for each eligible student.

(1) In the event that a student who has received a benefit withdraws, is suspended, or otherwise becomes ineligible, the institution must reimburse the college assistance program for the amount of the benefit for the applicable term pursuant to the refund policies of the institution.

(2) The institution is responsible for collecting any amount due to the institution from the student.

(3) In the event a student withdraws or drops below eligibility requirements after the institution's refund period and therefore must pay tuition and fees for full-time or less-than full time enrollment, the benefits may be retained pursuant to the refund policies of the institution.

B. The institution is responsible for awarding college assistance program funds according to the "Institutional Policies and Procedures for Awarding" section, R.62-258, and procedures that may be prescribed the Commission.

C. Eligible institutions shall award amounts which, when combined with other financial aid, cannot exceed the student's cost-of-attendance or defined program award maximums.

D. After the last day to register for each term of the eligible academic year, the institution will verify enrollment of each recipient and award amount based upon enrollment status.

E. The institution must submit a request for funds and/or return of funds by the established deadline each term. In addition, a listing of all eligible recipients by identification numbers with award amounts for the term must be sent to the Commission. At this time any funds must be returned to the Commission on Higher Education immediately.

F. The Commission will disburse awards to the eligible institutions to be placed in each eligible student's account.

G. At the time of disbursement, the student must be enrolled at the institution indicated as the home institution (on the National Guard application form) as a degree-seeking student at the home institution.



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### 62-260. Program Administration and Audits

A. The Commission on Higher Education, in conjunction with the National Guard, shall be responsible for the oversight of functions (e.g., guidelines, policies, rules, regulations) relative to this program with participating institutions.

(1) The Commission shall be responsible for the allocation of funds, promulgation of guidelines and regulations governing the college assistance program, and any audits or other oversight as may be deemed necessary to monitor the expenditures of scholarship funds.

(2) The National Guard shall be responsible for Officers continuing their service with the National Guard for at least four years after completion of the most recent benefit awarded or degree completion.

(3) The National Guard shall be responsible for any and all student appeals.

(4) The National Guard shall be responsible for providing a list of all eligible Guard members to the Commission on Higher Education, which in turn shall provide this list to all the eligible institutions. Only Guard Members who are on the list shall be awarded the college assistance program benefits.

B. According to the "Audit Policies and Procedures for Benefit and Grant Programs Manual," all eligible institutions that participate in the program must abide by program policies, rules or regulations. Institutions also agree to maintain and provide all pertinent information, records, reports or any information as may be required or requested by the Commission or the General Assembly to ensure proper administration of the program.

C. The Chief Executive Officer at each participating institution shall identify to the Commission a college assistance program institutional representative who is responsible for the operation of the program on the campus and will serve as the contact person. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the program.

### 62-261. Suspension or Termination of Institutional Participation

A. The Commission may review institutional administrative practices to determine institutional compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with program statutes, guidelines, rules or regulations, the Commission may suspend, terminate, or place certain conditions upon the institution's continued participation in the program and require reimbursement to the college assistance program for any funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply, the Commission shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation or violations may have occurred or are occurring at any eligible institution, the Commission shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, guidelines, rules, and regulations.

### 62-262. Funding

A. Benefits provided through the college assistance program are subject to the availability of funds appropriated by the General Assembly.

B. Funds appropriated for the college assistance program may be carried forward and expended for the same purpose. If a midyear budget reduction is imposed by the General Assembly or the State Budget and Control Board, the appropriations for the college assistance program are exempt.

C. Up to five percent of the amount appropriated to the college assistance program may be used to defray administrative costs incurred by the Commission associated with the implementation of this chapter

### **Fiscal Impact Statement:**

The South Carolina Commission on Higher Education estimates that no costs will be incurred by the state and its political subdivisions as a result of the revisions. Funding for the South Carolina National Guard Student College Assistance Program is dependent upon annual appropriations by the General Assembly.

**Statement of Rationale:**

The revisions to the regulation will incorporate statutory changes to align the South Carolina National Guard College Assistance Program regulation with state law and will promote greater consistency with respect to program administration.

Document No. 4534

**COMMISSION ON HIGHER EDUCATION**  
**CHAPTER 62**

Statutory Authority: 1976 Code Section 59-111-75

62-200 through 62-240. South Carolina National Guard Student Loan Repayment Program

**Synopsis:**

The General Assembly passed legislation, Act 40 of 2007, to close the South Carolina National Guard Student Loan Repayment Program to new participants beginning with the 2007-08 academic year and replaced the program with a college assistance program for South Carolina National Guard members. As of the 2013-14 academic year, the loan repayment program has been fully closed. As a result, the South Carolina Commission on Higher Education is repealing in its entirety the program regulation which is no longer needed. Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on June 27, 2014.

**Instructions:**

Repeal existing Regulations 62-200 through 62-240 South Carolina National Guard Student Loan Repayment Program. Pursuant to Code Section 59-111-75(B) enacted in 2007, the program has been fully closed as of the 2013-14 academic year and the regulation is no longer applicable.

**Text:**

62-200 through 62-240. Repealed.

**Fiscal Impact Statement:**

The South Carolina Commission on Higher Education estimates that no costs will be incurred in repealing the regulation. The program has been closed and the repeal of the regulation has no fiscal impact.

**Statement of Rationale:**

The South Carolina National Guard Student Loan Repayment Program was closed to new participants beginning with the 2007-08 academic year with the enactment of Act 40 of 2007 and replaced with a college tuition assistance program for South Carolina National Guard members. The loan repayment program was phased-out and fully closed as of the 2013-14 academic year. As a result, the program regulation is no longer applicable and is being repealed in its entirety.

## 68 FINAL REGULATIONS

Document No. 4644

**DEPARTMENT OF LABOR, LICENSING, AND REGULATION**  
**OFFICE OF OCCUPATIONAL SAFETY AND HEALTH**  
CHAPTER 71

Statutory Authority: 1976 Code Section 41-15-210

Article 1, Subarticle 6 and Subarticle 7  
Occupational Safety and Health Standards

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):

Revisions to Sections: 1910.269 and 1910.331, as amended in Final Register Volume 80, No. 192, dated October 5, 2015, pages 60033 through 60040

In Subarticle 7 (Construction):

Revisions to Sections: 1926.950 and 1926.960, as amended in Final Register Volume 80, No. 192, dated October 5, 2015, pages 60033 through 60040

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 by viewing the OSHA website at [www.OSHA.gov](http://www.OSHA.gov).