

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2017 PUBLICATION SCHEDULE

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

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

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

REPRODUCING OFFICIAL DOCUMENTS

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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4649			Securities Division	5/10/17	Secretary of State
4656			At-Risk Students	5/10/17	State Board of Education
4657			Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts	5/10/17	State Board of Education
4659			School Resource Officers	5/10/17	State Board of Education
4664			Hotels, Motels, and Similar Facilities	5/10/17	Department of Revenue
4683			Transportation Project Prioritization	5/10/17	Department of Transportation
4684			Secretary of Transportation Approval of Actions	5/10/17	Department of Transportation
4685			Commission Approval of Actions	5/10/17	Department of Transportation
4719			Maximum Time for Certification	5/10/17	LLR-Building Codes Council
4714			Adoption of Model Codes	5/10/17	LLR-Building Codes Council
4716			IRC Section R502.11.4 Truss Design	5/10/17	LLR-Building Codes Council
4718			IRC Section R802.10.1 Wood Truss Design	5/10/17	LLR-Building Codes Council
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4713			Barbershop Requirements; Applications for Inspection and Registration and Shop License	5/10/17	LLR-Board of Barber Examiners
4712			Purpose and Definitions	5/10/17	LLR-Office of Amusement Rides
4711			Real Estate Commission	5/10/17	LLR
4717			IRC Section R703.4 Flashing	5/10/17	LLR-Building Codes Council
4720			Sanitary and Safety Rules for Salons and Schools	5/10/17	LLR-Board of Cosmetology
4723			Examinations; Apprenticeship; and Continuing Education Requirements	5/10/17	LLR-Board of Examiners in Opticianry
4724			Amend Regulations 105-2 through 105-13 to Comport with 2016 Act 170	5/10/17	LLR-Real Estate Commission
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4689			Check Cashing Services	5/10/17	State Board of Financial Institutions-CFD
4690			Mortgage Lending	5/10/17	State Board of Financial Institutions-CFD
4715			Energy Standards Appeal Procedure	5/10/17	LLR-Building Codes Council
4675			Complaint	5/10/17	South Carolina Human Affairs Commission
4676			Employment Records to be Retained for Six Months	5/10/17	South Carolina Human Affairs Commission
4677			Investigation and Production of Evidence	5/10/17	South Carolina Human Affairs Commission
4679			Issuance of Complaint	5/10/17	South Carolina Human Affairs Commission
4680			Pleadings, Motions and Discoveries	5/10/17	South Carolina Human Affairs Commission
4681			Preservation of Records in Event of Charge of Discrimination	5/10/17	South Carolina Human Affairs Commission
4682			Procedure for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act	5/10/17	South Carolina Human Affairs Commission
4702			Cigarette Taxes	5/10/17	Department of Revenue
4686			General Regulations; and Additional Regulations Applicable to Specific Properties	5/10/17	Department of Natural Resources
4687			Wildlife Management Area Regulations; and Turkey Hunting Rules and Seasons	5/10/17	Department of Natural Resources
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4655			Plant Nursery Regulations	5/10/17	Clemson University-State Crop Pest Comm
4705			Drycleaning Facility Restoration	5/10/17	Department of Health and Envir Control
4693			Work Search	5/10/17	Department of Employment and Workforce
4731			Exemption Meals Sold to School Children	5/10/17	Department of Revenue
4697			Career or Technology Centers/Comprehensive High Schools	5/10/17	State Board of Education
4707			Discount Medical Plan Certificate of Registration	5/10/17	Department of Consumer Affairs
4708			Motor Club Certificate of Authority	5/10/17	Department of Consumer Affairs
4709			Prepaid Legal Services Certificate of Registration	5/10/17	Department of Consumer Affairs
4735			Chapter Revisions	5/10/17	Workers' Compensation Commission
4696			Advanced Placement	5/10/17	State Board of Education
4704			The Evaluation of School Employees for Tuberculosis	5/10/17	Department of Health and Envir Control
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4701	Requirements for Additional Areas of Certification	1/09/18	State Board of Education
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4730	South Carolina National Guard College Assistance Program	1/10/18	Commission on Higher Education
4695	Administrative and Professional Personnel Qualifications, Duties and Workloads	1/10/18	State Board of Education
4729	Determination of Rates of Tuition and Fees	1/12/18	Commission on Higher Education
4678	Investigation Procedures	1/18/18	South Carolina Human Affairs Commission
4665	Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities	1/19/18	Department of Revenue
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4710	Board of Barber Examiners		LLR
4658	Operation of Public Pupil Transportation Services		State Board of Education

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

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4625	Licensing Standards for Continuing Care Retirement Communities	Regulations and Admin. Procedures	Medical Affairs
4649	Securities Division	Regulations and Admin. Procedures	Banking and Insurance
4656	At-Risk Students	Regulations and Admin. Procedures	Education
4657	Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts	Regulations and Admin. Procedures	Education
4659	School Resource Officers	Regulations and Admin. Procedures	Education
4664	Hotels, Motels, and Similar Facilities	Regulations and Admin. Procedures	Finance
4683	Transportation Project Prioritization	Regulations and Admin. Procedures	Transportation
4684	Secretary of Transportation Approval of Actions	Regulations and Admin. Procedures	Transportation
4685	Commission Approval of Actions	Regulations and Admin. Procedures	Transportation
4719	Maximum Time for Certification	Regulations and Admin. Procedures	Labor, Commerce and Industry
4714	Adoption of Model Codes	Regulations and Admin. Procedures	Labor, Commerce and Industry
4716	IRC Section R502.11.4 Truss Design	Regulations and Admin. Procedures	Labor, Commerce and Industry
4718	IRC Section R802.10.1 Wood Truss Design	Regulations and Admin. Procedures	Labor, Commerce and Industry
4721	Board of Registration for Foresters	Regulations and Admin. Procedures	Fish, Game and Forestry
4713	Barbershop Requirements; Applications for Inspection and Registration and Shop License	Regulations and Admin. Procedures	Labor, Commerce and Industry
4712	Purpose and Definitions	Regulations and Admin. Procedures	Labor, Commerce and Industry
4711	Real Estate Commission	Regulations and Admin. Procedures	Labor, Commerce and Industry
4717	IRC Section R703.4 Flashing	Regulations and Admin. Procedures	Labor, Commerce and Industry
4720	Sanitary and Safety Rules for Salons and Schools	Regulations and Admin. Procedures	Labor, Commerce and Industry
4723	Examinations; Apprenticeship; and Continuing Education Requirements	Regulations and Admin. Procedures	Medical Affairs
4724	Amend Regulations 105-2 through 105-13 to Comport with 2016 Act 170	Regulations and Admin. Procedures	Labor, Commerce and Industry
4722	Administrator-in-Training Program Requirements	Regulations and Admin. Procedures	Medical Affairs
4689	Check Cashing Services	Regulations and Admin. Procedures	Banking and Insurance
4690	Mortgage Lending	Regulations and Admin. Procedures	Banking and Insurance
4715	Energy Standards Appeal Procedure	Regulations and Admin. Procedures	Labor, Commerce and Industry
4675	Complaint	Regulations and Admin. Procedures	Judiciary
4676	Employment Records to be Retained for Six Months	Regulations and Admin. Procedures	Judiciary
4677	Investigation and Production of Evidence	Regulations and Admin. Procedures	Judiciary
4679	Issuance of Complaint	Regulations and Admin. Procedures	Judiciary
4680	Pleadings, Motions and Discoveries	Regulations and Admin. Procedures	Judiciary
4681	Preservation of Records in Event of Charge of Discrimination	Regulations and Admin. Procedures	Judiciary
4682	Procedure for the Institution of Civil Actions as Provided in Section 1-13-90(d) of the Act	Regulations and Admin. Procedures	Judiciary
4702	Cigarette Taxes	Regulations and Admin. Procedures	Finance
4686	General Regulations; and Additional Regulations Applicable to Specific Properties	Regulations and Admin. Procedures	Fish, Game and Forestry
4687	Wildlife Management Area Regulations; and Turkey Hunting Rules and Seasons	Regulations and Admin. Procedures	Fish, Game and Forestry
4703	State Emergency Management Standards	Regulations and Admin. Procedures	General
4655	Plant Nursery Regulations	Regulations and Admin. Procedures	Agriculture and Natural Resources
4705	Drycleaning Facility Restoration	Regulations and Admin. Procedures	Medical Affairs
4693	Work Search	Regulations and Admin. Procedures	Labor, Commerce and Industry
4731	Exemption Meals Sold to School Children	Regulations and Admin. Procedures	Finance
4697	Career or Technology Centers/Comprehensive High Schools	Regulations and Admin. Procedures	Education
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4706	Underground Storage Tank Control Regulations	Regulations and Admin. Procedures	Medical Affairs
4671	WIC Vendors	Regulations and Admin. Procedures	Medical Affairs
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4692	Appeals to the Appellate Panel	Regulations and Admin. Procedures	Labor, Commerce and Industry
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4 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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4678	Investigation Procedures	Regulations and Admin. Procedures	Judiciary
4665	Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities	Regulations and Admin. Procedures	Finance
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4727	Term and Conditions for the Public's Use of State Lakes and Ponds Owned or Leased by the Department of Natural Resources	Regulations and Admin. Procedures	Fish, Game and Forestry
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4734	Minimum Specifications and Practice Standards Governing Pharmacies and Pharmacists Engaged in Nonsterile and Sterile Compounding	Regulations and Admin. Procedures	Medical Affairs
Permanently Withdrawn			
4710	Board of Barber Examiners	Regulations and Admin. Procedures	Labor, Commerce and Industry
4658	Operation of Public Pupil Transportation Services	Regulations and Admin. Procedures	Education

Executive Order No. 2017-05

WHEREAS, Mohsen A. Baddourah, a member of the City Council of the City of Columbia, has been indicted by a Grand Jury convened in Richland County for Domestic Violence, Second Degree, in violation of section 16-25-20 of the South Carolina Code of Laws; and

WHEREAS, Mohsen A. Baddourah, as a member of the City Council of the City of Columbia, is an officer of the State or its political subdivisions; and

WHEREAS, Article VI, Section 8 of the South Carolina Constitution provides, in relevant part, that “[a]ny officer of the State or its political subdivisions . . . who has been indicted by a grand jury for a crime involving moral turpitude . . . may be suspended by the Governor until he shall have been acquitted”; and

WHEREAS, under South Carolina law, moral turpitude “implies something immoral in itself,” *State v. Horton*, 271 S.C. 413, 414, 248 S.E.2d 263, 263 (1978), and “involves an act of baseness, vileness, or depravity in the social duties which a man owes to his fellow man or society in general, contrary to the accepted and customary rule of right and duty between man and man,” *State v. Major*, 301 S.C. 181, 186, 391 S.E.2d 235, 238 (1990); and

WHEREAS, Domestic Violence, Second Degree, is a crime of moral turpitude; and

WHEREAS, as Governor of the State of South Carolina, I am mindful of the duties and responsibilities vested in me by the Constitution and Laws of this State.

NOW, THEREFORE, by virtue of the aforementioned authority, and pursuant to Article VI, Section 8 of the South Carolina Constitution and the powers conferred upon me therein, I hereby Order that Mohsen A. Baddourah shall be and hereby is suspended from his office as a member of the City Council of the City of Columbia until such time as the above-referenced charge is resolved, at which time further appropriate action will be taken by the undersigned. This action in no manner addresses the guilt or innocence of Mohsen A. Baddourah and shall not be construed as an expression of any opinion on such question. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS THIRTEENTH DAY OF MARCH, 2017.**

**HENRY MCMASTER
Governor**

Executive Order No. 2017-06

WHEREAS, on April 3, 2017 and April 5, 2017, the National Weather Service issued Severe Thunderstorm Warnings, Flash Flood Watches, High Wind Warnings, Tornado Watches and Tornado Warnings for several counties in South Carolina, leading to the possibility of wind gusts up to eighty miles an hour, large hail, minor flooding, and strong tornadoes, all of 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 closed early on April 3, 2017, in the counties of Lancaster, Newberry and Saluda and on April 5, 2017, in the counties of Aiken, Barnwell, Calhoun, Edgefield, Fairfield, Florence, Lexington, McCormick, Newberry, Orangeburg, Richland, and Saluda; and

6 EXECUTIVE ORDERS

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, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby grant leave with pay to state employees absent from work as directed on April 3, 2017 and April 5, 2017, as a result of hazardous weather conditions.

This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 10th DAY OF APRIL, 2017.**

**HENRY MCMASTER
Governor**

Executive Order No. 2017-07

WHEREAS, there presently exists a vacancy in the office of the Treasurer of Dorchester County due to the recent death of Mary L. Pearson; and

WHEREAS, in the event of a vacancy in the office of a county treasurer, the undersigned is authorized to appoint a suitable person, who shall be an elector of the county, to serve as county treasurer pursuant to sections 1-3-220(2), 4-11-20(1), and 12-45-20 of the South Carolina Code of Laws, as amended; and

WHEREAS, Cindy L. Chitty, residing at 1404 Peninsula Pointe, Summerville, South Carolina 29485, is a fit and proper person to serve as the Treasurer of Dorchester County.

NOW, THEREFORE, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby appoint Cindy L. Chitty to serve as Treasurer of Dorchester County, effective immediately, until the next general election and until her successor shall qualify as provided by law.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS ELEVENTH DAY OF APRIL, 2017.**

**HENRY MCMASTER
Governor**

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 April 28, 2017 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 Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3495.

Affecting Aiken County**Professional Case Management of South Carolina, LLC d/b/a Professional Case Management of South Carolina – Aiken**

Establishment of a Specialty Home Health Agency in Aiken County at a total project cost of \$25,000.

Affecting Anderson County**BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care**

Establishment of a Home Health Agency in Anderson County at a total project cost of \$48,990.

Affecting Berkeley County**Trident Medical Center, LLC d/b/a Summerville Freestanding ED**

Construction of a freestanding emergency department in Berkeley County at a total project cost of \$13,079,900.

Affecting Charleston County**Bishop Gadsden Episcopal Retirement Community**

Conversion of 9 existing institutional beds to 9 non-institutional community nursing home beds for a total of 50 non-institutional beds at a total project cost of \$0.00.

Affecting Chesterfield County**Liberty Home Care, LLC d/b/a Liberty Home Care – Bennettsville**

Establishment of a Home Health Agency in Chesterfield County at a total project cost of \$0.00.

Affecting Florence County**BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care**

Establishment of a Home Health Agency in Florence County at a total project cost of \$51,980.

Affecting Georgetown County**Liberty Home Care, LLC d/b/a Liberty Home Care - Myrtle Beach**

Establishment of a Home Health Agency in Georgetown County at a total project cost of \$0.00.

Affecting Greenville County**BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care**

Establishment of a Home Health Agency in Greenville County at a total project cost of \$58,750.

8 NOTICES

Affecting Lancaster County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in Lancaster County at a total project cost of \$58,900.

Affecting Lexington County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in Lexington County at a total project cost of \$52,160.

Affecting Richland County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in Richland County at a total project cost of \$59,650.

The Columbia Nephrology Associates, P.A. d/b/a Columbia Nephrology Associates Vascular Center

Conversion of an office-based vascular access center to an ambulatory surgical facility in Richland County at a total project cost of \$600,000.

Affecting Spartanburg County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in Spartanburg County at a total project cost of \$51,450.

Affecting Sumter County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in Sumter County at a total project cost of \$49,550.

Affecting York County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in York County at a total project cost of \$69,800.

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 April 28, 2017. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Nic Gerrald, 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) 545-3495.

Affecting Anderson County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in Anderson County at a total project cost of \$48,990.

Affecting Beaufort County

SCHHA, LLC d/b/a MUSC Health at Home by BAYADA

Establishment of a Home Health Agency in Beaufort County at a total project cost of \$15,000.

Affecting Berkeley County**SCHHA, LLC d/b/a MUSC Health at Home by BAYADA**

Establishment of a Home Health Agency in Berkeley County at a total project cost of \$15,000.

Affecting Colleton County**SCHHA, LLC d/b/a MUSC Health at Home by BAYADA**

Establishment of a Home Health Agency in Colleton County at a total project cost of \$15,000.

Affecting Dorchester County**SCHHA, LLC d/b/a MUSC Health at Home by BAYADA**

Establishment of a Home Health Agency in Dorchester County at a total project cost of \$15,000.

Affecting Florence County**BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care**

Establishment of a Home Health Agency in Florence County at a total project cost of \$51,980.

Affecting Georgetown County**SCHHA, LLC d/b/a MUSC Health at Home by BAYADA**

Establishment of a Home Health Agency in Georgetown County at a total project cost of \$15,000.

Affecting Greenville County**BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care**

Establishment of a Home Health Agency in Greenville County at a total project cost of \$58,750.

Affecting Horry County**SCHHA, LLC d/b/a MUSC Health at Home by BAYADA**

Establishment of a Home Health Agency in Horry County at a total project cost of \$15,000.

Affecting Lancaster County**BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care**

Establishment of a Home Health Agency in Lancaster County at a total project cost of \$58,900.

Affecting Lexington County**BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care**

Establishment of a Home Health Agency in Lexington County at a total project cost of \$52,160.

Affecting Orangeburg County**SCHHA, LLC d/b/a MUSC Health at Home by BAYADA**

Establishment of a Home Health Agency in Orangeburg County at a total project cost of \$15,000.

Affecting Richland County**BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care**

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Establishment of a Home Health Agency in Richland County at a total project cost of \$59,650.

The Columbia Nephrology Associates, P.A. d/b/a Columbia Nephrology Associates Vascular Center

Conversion of an office-based vascular access center to an ambulatory surgical facility in Richland County at a total project cost of \$600,000.

Affecting Spartanburg County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in Spartanburg County at a total project cost of \$51,450.

Affecting Sumter County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in Sumter County at a total project cost of \$49,550.

Affecting York County

BAYADA Home Health Care, Inc. d/b/a BAYADA Home Health Care

Establishment of a Home Health Agency in York County at a total project cost of \$69,800.

The South Carolina State Health Plan public comment period for the Draft 2017-2018 South Carolina Health Plan has been extended until May 5, 2017. Comments may be submitted in writing via e-mail to coninfo@dhec.sc.gov or mail to Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201.

The Draft 2017-2018 South Carolina Health Plan is currently accessible via the following link: <http://www.scdhec.gov/Health/FHPF/HealthFacilityRegulationsLicensing/CertificateOfNeed/>. For further information, (803) 545-4200.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

State Register Document 4740

April 28, 2017

The Department of Health and Environmental Control published a Notice of Proposed Regulation and Opportunity for Public Comment in the *State Register* on December 23, 2016, identified as Document 4740, to promulgate amendments of Regulation 61-16, *Minimum Standards for Licensing Hospitals and Institutional General Infirmaries*. The aforementioned Notice scheduled a write-in public comment period that closed January 23, 2017, and gave notice of a Public Hearing scheduled before the Board of Health and Environmental Control for February 9, 2017. The Public Hearing was subsequently cancelled and rescheduled for April 13, 2017.

The Public Hearing rescheduled for April 13, 2017, has been cancelled and rescheduled before the Department's Board for June 8, 2017. The hearing will be held at the regularly-scheduled Board meeting on June 8, 2017, in the Board Room, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, South Carolina. 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 HUMAN SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

- 126-300. General.
- 126-301. Services Covered by the Medicaid Program.
- 126-302. Audiology Services.
- 126-303. Certified Nurse Midwifery Services.
- 126-304. Community Long Term Care Home and Community Based Services.
- 126-305. Dental Care.
- 126-306. Durable Medical Equipment.
- 126-307. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Services.
- 126-308. End Stage Renal Disease Services.
- 126-309. Family Planning Services.
- 126-310. Hospital Services.
- 126-311. Laboratory and X-ray Services/Tests.
- 126-312. Medical Transportation Services.
- 126-313. Mental Health Clinic Services.
- 126-313. Mental Health Clinic Services.
- 126-314. Nursing Facility Services.
- 126-315. Physicians' Services.
- 126-316. Podiatry Services.
- 126-317. Prescribed Drugs.
- 126-318. Psychiatric Facility Services.
- 126-319. Rehabilitative Services.
- 126-320. Rural Health Clinic Services.
- 126-321. Speech Pathology.
- 126-322. Tubercular Facility Services.
- 126-323. Vision Care.
- 126-335. Hospital Reimbursement.
- 126-350. Definitions.
- 126-355. Application Procedures.
- 126-360. General Requirements.
- 126-365. Categorically Needy Eligible Groups.
- 126-370. Redetermination of Categorically Needy Eligibility.
- 126-375. Medical Institution Vendor Payments.
- 126-380. Denial, Termination, or Reduction of Benefits.
- 126-399. Conflict Between State and Federal Regulations.

The Department of Health and Human Services elected to terminate the promulgation process on Regulation Document No. 4745, relating to scope of the program and eligibility for the Medical Assistance (Medicaid) Program.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

NOTICE OF GENERAL PUBLIC INTEREST

126-125. General.

126-170. General.

126-171. Protected Information.

126-172. Purposes Directly Connected to the Administration of the Programs and Grants.

126-173. Release of Information.

126-174. Distribution of Materials to Recipients and Providers.

126-175. Penalties.

The Department of Health and Human Services elected to terminate the promulgation process on Regulation Document No. 4744, relating to nondiscriminatory practices and safeguarding of client information.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Section 13-7-40

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (“DHEC”) proposes amending Regulation 61-63, Radioactive Materials (Title A). Interested persons are invited to submit written comments to James K. Peterson, Division Director, Division of Radioactive Material Licensing and Compliance, Bureau of Radiological Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201 or via email at petersjk@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on May 29, 2017, the close of the drafting comment period.

Synopsis:

The federal Atomic Energy Act of 1954 enables the United States Nuclear Regulatory Commission (“Commission”) to enter into agreements with states governors allowing for state regulation of byproduct, source, and special nuclear materials. 42 U.S.C. Section 2121. The Commission enters into such agreements if it finds that the state regulatory program is in compliance with applicable federal regulations. *Id.* In order to renew South Carolina’s ongoing agreement with the Commission, DHEC proposes amending Regulation 61-63 to ensure state standards are in compliance with the Commission’s regulatory updates. Specifically, DHEC’s proposed amendments will revise Parts II, V, VII, and XII for consistency with federal regulations.

The Department may also make revisions for grammatical errors, typographical errors, and other such changes.

Legislative review will not be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-61-610 et seq.

Notice of Drafting:

The Department of Health and Environmental Control proposes to draft a new regulation that addresses the Stroke System of Care Act of 2011. Interested persons may submit comments to Robert Wronski, Bureau Chief, DHEC Bureau of EMS and Trauma, 2600 Bull Street, Columbia, South Carolina 29201, or via email at wronskra@dhec.sc.gov. Comments may also be submitted electronically at the following address: <http://www.scdhec.gov/Agency/RegulationsAndUpdates/PublicComments/>, under the Notice of Drafting for South Carolina Stroke Care System. To be considered, all comments must be received no later than 5:00 p.m. May 29, 2017, the close of the drafting comment period.

Synopsis:

In 2011, the General Assembly passed the Stroke System of Care Act of 2011 which requires the Department of Health and Environmental Control (DHEC) to promulgate regulations to establish a process of application and recognition of acute care hospitals that wish to be recognized as stroke centers within the State. A list of all recognized stroke centers must be posted on the Department website and distributed to all DHEC licensed Emergency Medical Service (EMS) agencies. The act further requires the Department to establish a statewide

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stroke registry for the collection and analysis of stroke care by acute care hospitals within the State. Additionally, the act requires the Department to adopt and distribute a nationally recognized, standardized stroke-triage assessment tool. This assessment tool must be posted on the Department's website and distributed to all DHEC licensed EMS agencies.

Legislative review of this amendment is required.

Document No. 4747
DEPARTMENT OF SOCIAL SERVICES
 CHAPTER 114

Statutory Authority: 1976 Code Sections 43-1-80 and 63-13-180 et seq.

114-500 through 114-509. Regulations for the Licensing of Child Care Centers

Preamble:

Child care standards provide the foundation for ensuring safety and quality for children away from their homes. Quality care ensures the nurturing and protection that children need and helps to create an environment in which children can grow, learn and thrive. The South Carolina Department of Social Services administers regulations for child care facilities. The Department, with the advice and consent of the 17-member State Advisory Committee on the Regulation of Child Care Facilities, is charged with conducting a comprehensive review of these regulations at least once every three years. New regulations replace the current regulations in their entirety once passed through the legislative process. These regulations represent a collaborative effort toward improving the quality of care children receive. It demonstrates the value South Carolina citizens place on all children and our willingness to work and compromise to improve life for our state’s greatest resource – our children.

Notice of Drafting was published in the *State Register* on March 24, 2017.

Section-by-Section Discussion of Proposed Amendments:

1. 114-500(B)(3)(h) – language added regarding children with disabilities
2. 114-500(B)(3)(j) – amended statutory referrals to reflect the updated code section
3. 114-500(C)(1) – regulation added regarding children with disabilities
4. 114-500(C)(2) – regulation added regarding children with disabilities
5. 114-500(C)(3) – regulation added regarding children with disabilities
6. 114-500(C)(4) – regulation added regarding children with disabilities
7. 114-501(A) – amended statutory referral to reflect the updated code section
8. 114-501(A)(8) – amended definition of a child
9. 114-501(A)(10) – regulation added regarding the definition of a child with a disability
10. 114-501(A)(11) – regulation added regarding the definition of a child with special needs
11. 114-501(A)(15) – regulation amended regarding the definition of an emergency person
12. 114-501(A)(19) – regulation added regarding the definition of night care
13. 114-501(A)(20) – amended statutory referral to reflect the updated code section
14. 114-501(A)(35) – regulation added regarding the definition of a substitute teacher
15. 114-501(A)(39) – regulation added regarding the definition of tracking
16. 114-502(A)(2) – amended statutory referral to reflect the updated code section
17. 114-502(B)(4) – amended statutory referral to reflect the updated code section
18. 114-502(C)(1) – amended regulation regarding frequency of inspections
19. 114-502(C)(3) – amended regulation to correct a scrivener’s error
20. 114-502(D)(1) – amended statutory referral to reflect the updated code section
21. 114-503(C)(1) – amended statutory referral to reflect the updated code section
22. 114-503(D)(2) – amended regulation regarding incidents that must be reported
23. 114-503(D)(2)(c) – regulation added regarding the treatment of children injured while in care
24. 114-503(G)(3) – amended regulation regarding persons with access to records
25. 114-503(G)(7) – regulations added regarding child records
26. 114-503(H)(4) – regulations amended regarding staff records
27. 114-503(H)(7) – regulations amended regarding staff records
28. 114-503(I)(4) – amended statutory referral to reflect the updated code section
29. 114-503(J)(4) – regulation added regarding communication required by child care centers
30. 114-503(K)(1)(b) – regulations amended regarding child abuse checks

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31. 114-503(K)(3)(c)(v) – regulation amended regarding center directors and/or center co-directors
32. 114-503(K)(4) – regulations amended regarding caregivers’/teachers’ qualifications
33. 114-503(K)(5) – regulations amended regarding professional development
34. 114-504(A)(1) – regulation amended regarding supervision
35. 114-504(B) – regulations amended regarding ratios
36. 114-504(C)(1) – regulation amended regarding nap time ratios
37. 114-505(A)(3) – regulation amended regarding child health
38. 114-505(B)(5) – regulation removed regarding sanitation
39. 114-505(F)(12) – regulation amended regarding diapering
40. 114-505(F)(17) – regulation added regarding diapering
41. 114-505(G)(1) – regulations amended regarding staff health
42. 114-505(I)(1)(f) – amended statutory referral to reflect the updated code section
43. 114-506(A)(8) – regulation amended regarding outdoor play
44. 114-506(B) – regulations amended regarding discipline and behavior management
45. 114-507(A)(5)(f) – regulation amended regarding environmental hazards
46. 114-507(A)(6) – regulations amended regarding water supply
47. 114-507(A)(7) – regulations amended regarding temperature
48. 114-507(A)(12)(d) – regulation amended regarding bathrooms
49. 114-507(B) – regulations added or amended regarding outdoor equipment
50. 114-507(C) – regulations amended or removed regarding furniture, toys and recreational equipment
51. 114-507(D)(2) – regulation amended regarding rest equipment
52. 114-507(E)(4) – regulations amended regarding animals
53. 114-508(B)(1) – regulation amended regarding food preparation
54. 114-508(B)(6) – regulation amended regarding food preparation
55. 114-509(A)(3)(d) – regulation amended regarding feeding, eating and drinking
56. 114-509(A)(5) – regulations amended regarding sleeping

Notice of Public Hearing and Opportunity for Public Comment:

Address for written comments to be sent: Ms. Cynthia Lara, Department of Social Services, Division of Early Care & Education, Director of Child Care Licensing, 1535 Confederate Avenue, Ste. 311-1, Columbia, SC 29202, no later than May 29, 2017.

A public hearing has been requested. The public hearing will be held upon the receipt of a request for the public hearing by 1) 25 or more people; 2) a governmental subdivision or agency; or 3) by an association with 25 or more members pursuant to S.C. Code Section 1-23-110(A)(3). The date, time and place of public hearing is: Wednesday, May 31, 2017 at 10:00 a.m. at the offices of the Administrative Law Court, Edgar Brown Building, Second Floor, 1205 Pendleton Street, Columbia, SC.

Preliminary Fiscal Impact Statement:

The proposed regulations will have no substantial fiscal or economic impact on the State or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or State Government due to any inherent requirements of this regulation.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: To provide the foundation for healthy, safe and quality child care in public and private child care centers in South Carolina.

Legal Authority: 1976 Code Sections 43-1-80 and 63-13-180 et seq.

Plan for Implementation: The amendments will take effect upon the approval of the South Carolina General Assembly and publication as final regulations in the *State Register*. A copy of the regulations will be made available electronically on the Department's website at www.scchildcare.org. The Department will also send an email to stakeholders and the regulated community and will communicate with the affected child care centers before and after the implementation period regarding the amended regulations.

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

These amendments are based on the advice and recommendation of the State Advisory Committee on the Regulation of Child Care Facilities. They are reasonable and necessary to improve the health, safety and quality of child care in South Carolina. They serve to further protect the interests of children and parents while accounting for the needs of owners and operators of child care facilities. The amendments clarify and/or strengthen existing regulations that enable Department staff to enforce health and safety standards for public and private child care centers in South Carolina.

DETERMINATION OF COSTS AND BENEFITS:

There is not anticipated increase in costs to the State or its political subdivisions resulting from these proposed revisions. The standards to be adopted are significantly similar to those already in effect and applicable to the regulated community as a matter of state law, thus the regulated community has already incurred the costs of these regulations. The proposed amendments will benefit the regulated community and the children they serve by improving the health, safety and quality of public and private child care centers.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The Department anticipates no environmental effect. Public health will be positively affected by the strengthening of regulations regarding the inclusion of children with special needs, the encouragement that child care teachers consult with doctors regarding a TDAP vaccine, requiring additional continuing education for child care teachers, restricting the use of play pens in child care centers, enforcing safe sleep practices and banning child care staff from smoking on the child care premises.

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

There is no anticipated detrimental effect on the environment. Public health may be detrimentally affected if the regulation amendments are not implemented by failing to adopt current best practices for health and safety of children in child care facilities because current health and safety practices were implemented in 2005.

Statement of Rationale:

These amendments are proposed to enhance and improve the current licensing regulations for private and public child care centers based on the advice and recommendation of the State Advisory Committee on the Regulation of Child Care Facilities. The Committee consulted experts in the field of child care licensing, inclusion of children with special needs, and national best practice standards adopted by other states.

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Text:

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

Document No. 4703
OFFICE OF THE GOVERNOR
CHAPTER 58
Statutory Authority: 1976 Code Sections 25-1-420 et seq.

58-101. State Emergency Management Standards

Synopsis:

The proposed amendments will update the language of the regulation to include the role of the Adjutant General in emergency management as well as more precisely define the chain of command, coordination, direction, and control during an emergency. These revisions will help delineate the roles and responsibilities in emergency management at the state level.

A Notice of Drafting was published in the *State Register* on August 26, 2016.

Instructions:

Replace Regulation 58-101 as shown below.

Text:

58-101. State Emergency Management Standards.

A. General

1. There shall be established a South Carolina emergency management organization, which shall consist of a state element and forty-six county elements. The state element of this organization shall be comprised of all officials, departments, and employees of state government and may include persons or groups who, by agreement or operation of law, may be charged with duties incident to the protection of life and property within the State during an emergency. The forty-six county elements shall be organized and maintained pursuant to the requirements of Regulation 58-1.

2. There shall be a South Carolina Emergency Plan consisting of a South Carolina Emergency Operations Plan (SCEOP) and forty-six County Emergency Operations Plans. The SCEOP shall outline the emergency roles and responsibilities of the State Emergency Response Team (SERT) and county organizations. The SCEOP shall be developed and maintained pursuant to the requirements of this regulation and will be used for any incident that occurs. The forty-six County Emergency Operations Plans shall be developed and maintained pursuant to the requirements of Regulation 58-1.

a. State government shall be responsible for providing resources to support county government emergency operations and for coordinating support to county government from other sources, including the federal government, unaffected counties of the State, and adjacent states. This assistance may consist of, but not limited to, liaisons, representatives or Incident Management Teams (IMT) that will assist and/or coordinate support using National Incident Management System (NIMS) and Incident Command System (ICS) principals in conjunction with county or local representatives.

b. State government shall assume direction and control of area or county government emergency operations when requested by proper county government authority; or when county government authority has broken down or is nonexistent; or when the nature and magnitude of an emergency is such that effective response and recovery action is beyond the capability of county government, or when, in the event of a war emergency or declared natural or man-made emergency, state direction is required for implementation of a state or national plan in accordance with the Emergency Powers Act (South Carolina Code of Laws, Title 25 – Chapter 1. Article 4; Section 25-1-420 thru 460).

c. Nothing in Item A(2)(b) above is intended to transfer, or otherwise remove from county government, the responsibility for the protection of life and property within their respective jurisdictions. The purpose of these items is to provide for an effective level of direction, control, or coordination in the event a major emergency impacts the State. County government shall continue to be responsible for the conduct of operations within their

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jurisdiction during all emergency situations; however, under conditions identified in Item A(2)(b), state government shall exercise an appropriate degree of direction, control, or coordination at the discretion of the Governor.

d. Unless otherwise provided for in this Regulation or Regulation 58-1, county government shall be responsible for initial response to, and the conduct of, operations relating to emergency conditions impacting their respective area of jurisdiction.

e. County government shall be responsible for ensuring that all appropriate local resources, including those of municipalities, are being utilized to support the conduct of emergency operations prior to requesting outside assistance from state government. This requirement is deferred when state or inter-jurisdictional plans or procedures provide for an automatic response by state government.

3. State government's chain of communications, coordination, direction, and control during an emergency shall consist of the following:

- a. The Governor and the Governor's Office,
- b. Emergency Support Functions (ESF), and
- c. The Governor's Command Section (Policy Group/Executive Group) which may include the following:
 - i. The Office of the Adjutant General,
 - ii. The South Carolina Emergency Management Division (SCEMD),
 - iii. The Department of Transportation
 - iv. The Department of Public Safety,
 - v. The State Law Enforcement Division,
 - vi. The Department of Natural Resources,
 - vii. The Department of Social Services,
 - viii. The Department of Health and Environmental Control,
 - ix. The Office of Regulatory Staff,
 - x. The Department of Labor, Licensing, and Regulation,
 - xi. The Department of Administration, and
 - xii. Any other agency as needed.

4. County government's chain of communications, coordination, direction and control during an emergency shall be consistent with Regulation 58-1.

5. When required during an emergency, state direction, control, communication and coordination between state and county government shall be channeled through SCEMD and the County Emergency Management Agency, respectively.

B. South Carolina Emergency Operations Plan - Development Requirements

1. The South Carolina Emergency Operations Plan (SCEOP) shall consist of the following elements:

- a. Basic plan, hazard vulnerability analysis, concept of operations and annexes;
- b. ESF annexes and implementing procedures of tasks and responsibilities assigned by the SCEOP. Each functional annex will be assigned a primary organization responsible for ensuring completion of their respective annex. Supporting organizations will also be assigned and provide required support to the primary organization;
- c. Major hazard contingency plans. Such plans shall address major hazards addressed in the hazards vulnerability analysis.

2. Responsibilities for the development of plans, annexes and implementing procedures are as follows:

- a. The SCEOP shall be developed and coordinated with applicable state agencies by SCEMD;
- b. Major hazard contingency plans shall be developed and coordinated with local governments by SCEMD, with the exception of those plans that are the responsibility of other state agencies;
- c. Individual ESF annexes and implementing procedures shall be developed and coordinated with applicable state agencies for all tasks and responsibilities assigned that agency by the SCEOP;
- d. County emergency operation plans, annexes and implementing procedures will be developed by local government in accordance with Regulation 58-1, and will follow the precepts, practices and procedures as defined in NIMS.

C. South Carolina Emergency Operations Plan – Review and Approval

1. The Office of the Governor shall be responsible for approval of the SCEOP. SCEMD shall submit the SCEOP to the Governor for review and approval by February 1 of the first year of each new gubernatorial term.

2. Each plan, annex, and standard operating procedure developed pursuant to this Section shall be submitted by the appropriate state agency and local government to SCEMD for review and concurrence.

3. SCEMD will provide to each submitting agency the results of the review.

4. Each plan, annex, or standard operating procedure developed pursuant to this Item shall be reviewed and revised as required but not to exceed a period of more than 3 years. State agencies and local governments shall submit appropriate revisions and certifications for review and concurrence. SCEMD shall establish a schedule for such submissions.

D. State Agency Emergency Management Responsibilities

1. The duties of the Office of the Governor shall include, but are not limited to:

a. Developing of plans and procedures to support the Governor in the exercising of executive responsibilities and authority during an emergency;

b. Providing executive coordination and communication with SCEMD in the development of the SCEOP, approval of the SCEOP, and implementation of such SCEOP during an emergency;

c. Serving as the official point of contact within state government for public information during an emergency. Specific responsibilities may be assigned to state agencies, pursuant to the SCEOP, or at the discretion of the Governor's Press Secretary;

d. Serving as the coordinating agency for public information in accordance with the provisions of Item D (3) below;

e. Acting as final administrative authority for declaratory rulings associated with the implementation of Regulations 58-1 and 58-101.

2. The duties of the Office of the Adjutant General shall include, but are not limited to:

a. Providing administrative and operational guidance to SCEMD;

b. Developing of plans and procedures to support the Governor in the exercising of executive responsibilities and authority during day-to-day and emergency operations;

c. Forming an emergency management review committee in accordance with Regulation 58-1 and consider such recommendations the committee may make;

d. Providing executive coordination and communication with SCEMD in the development of the SCEOP and implementation of such SCEOP during an emergency;

e. Participating within the Governor's Command Section (Policy Group/Executive Group) when a State of Emergency has been declared.

3. SCEMD shall be responsible for functions that include, but are not limited to:

a. Development, coordination, maintenance, review and revision of the SCEOP. Such reviews shall be conducted with the support and direct participation of agencies and organizations identified in the SCEOP to ensure that organizational assignments are appropriate and consistent with the capabilities of those agencies or organizations;

b. Provide program coordination and technical and staff assistance as requested to support the implementation of this Regulation and Regulation 58-1;

c. Development of program guidance to support the implementation of this Regulation and Regulation 58-1;

d. Development and maintenance of state plans as may be required;

e. Conduct periodic review and evaluation, not to exceed a period of more than 3 years, of county governments' accomplishments, deficiencies, and proposed activities as they relate to this Regulation and Regulation 58-1, and maintain copies of such evaluations in accordance with the state retention policy;

f. Review and approval of County Emergency Operations Plans submitted pursuant to the requirements of Regulation 58-1;

g. Review and concurrence in elements of the SCEOP;

h. Serves as the designated coordinating point between the State, state agencies, and county government during an emergency;

i. Coordination to support implementation of the Stafford Act.

4. State agencies designated as ESF Lead Agencies in the SCEOP shall be responsible for functions which include, but are not limited to:

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a. Designation of an agency Emergency Management Coordinator(s), who shall be responsible for agency coordination and implementation of planning and administrative requirements as outlined and in support of the SCEOP;

b. Coordination of ESF response operations, through the designated Emergency Management Coordinator(s), in accordance with plans and procedures developed in support of the SCEOP and the ESF operations;

c. Designation of adequate SEOC representation to provide 24-hour coverage for periods of operations. The Emergency Management Coordinator(s) may also be designated as a SEOC representative;

d. Responsible for the review, revision and development of designated ESF plans and procedures.

5. State agencies designated as ESF Support Agencies in the SCEOP shall be responsible for functions which include, but are not limited to:

a. Designation of an agency Emergency Management Coordinator(s), who shall be responsible for agency coordination and implementation of planning and administrative requirements as outlined and in support of the SCEOP;

b. Coordination of ESF response operations, through the designated Emergency Management Coordinator(s), in accordance with plans and procedures developed in support of the SCEOP and the ESF operations;

c. Designation of adequate SEOC representation to provide 24-hour coverage for periods of operations. The Emergency Management Coordinator(s) may also be designated as a SEOC;

d. Support and participate in the review, revision and development of designated ESF plans and procedures.

E. Facilities and Equipment

1. There shall be established a central state warning point from which state government can receive initial notification of (non-law enforcement) emergency occurrences or conditions within the State, and can alert key officials and agencies within state government for response. This facility shall be operated twenty-four (24) hours a day.

2. There shall be established, occupied and maintained by SCEMD a SEOC from which state government can direct, control, and coordinate emergency operations. This facility, upon activation, shall be staffed by those state agency SEOC representatives designated by the SCEOP, or by SCEMD as appropriate. Emergency response activities of all state agencies shall be coordinated with their respective SEOC representatives when the SEOC is activated.

3. There shall be established within the SEOC communications capabilities necessary to support emergency operations.

F. State Emergency Management Training and Exercises

1. SCEMD shall establish and manage a training and exercise program for state, county and municipal emergency response personnel. To support this, SCEMD shall annually publish a multi-year training and exercise plan. The multi-year training and exercise plan may be periodically amended during the program year. Training and exercises listed in this plan shall be in addition to that routinely provided or required within a state agency.

2. SCEMD shall establish and conduct annually a major exercise addressing potential hazards affecting the State. Such an exercise shall require participation of the majority of ESFs identified in the SCEOP, shall be conducted in conjunction with an exercise involving 1 or more counties, and shall include the actual deployment of personnel and resources under simulated conditions. An agency may request certification from SCEMD for participation in an actual event as a substitution for this requirements.

3. Members of the SEOC and the state agency Emergency Management Coordinators shall participate in at least 2 exercise events per year. Exercise events meeting this requirement shall be from the list of exercise events published by SCEMD in the multi-year training and exercise plan. An agency may request certification from SCEMD for a specific training activity, exercise or actual event not contained on the published multi-year training and exercise plan.

4. State agency personnel shall participate in preparedness training and exercise activities in a manner consistent with responsibilities assigned in the SCEOP.

5. SCEMD shall coordinate the provision of staff and technical assistance to support the implementation of this Item.

G. Emergency Management Public Awareness

1. State agencies assigned public information responsibilities under the SCEOP shall assist in the development and coordination of the conduct of public awareness activities within the State.
2. County government shall conduct ongoing educational programs and participate in state special emphasis programs pursuant to Regulation 58-1.
3. SCEMD Public Information personnel shall coordinate the provision of resources to support county government public awareness activities.
4. State special emphasis programs shall be conducted annually in coordination with appropriate county governments. Such programs shall address potential hazards affecting the State.

Fiscal Impact Statement:

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

Statement of Rationale:

The determination to amend this regulation was based on requests received by the South Carolina Emergency Management Division. The current regulation does not include the role of the Adjutant General. It is necessary to add the Adjutant General's roles and responsibilities to explain the coordination between different areas of government when responding to an emergency or disaster. It was also necessary to define the Governor's Command Section to clarify the chain of communications, coordination, direction, and control during an emergency. During an emergency situation, the clear delineation of roles and responsibilities is crucial to a successful operation and is directly linked to the health and safety of the public.

Document No. 4736

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Section 44-1-140

61-47. Shellfish

Synopsis:

Regulation R.61-47 was last substantively amended on June 26, 2015. The regulation contains requirements for the safe and sanitary harvesting, storing, processing, handling and transportation of molluscan shellfish (oysters and clams) to protect the health of consumers of shellfish. The Department amends R.61-47 to provide specific technical requirements regarding the harvesting and handling of clams and maricultured triploid oysters during the summer months (*i.e.*, months that require additional temperature controls) in a manner that is consistent with the national shellfish sanitation program and protects the health of the consumers of shellfish. The time period for additional temperature controls for the summer harvesting and handling of shellfish is May 16th through September 30th, unless otherwise specified. The amendment includes a requirement for certified shippers to only accept shellfish from harvesters that have received annual training on key regulatory requirements and the safe and sanitary practices related to the harvesting and handling of shellfish in South Carolina. The amendment updates several documents referenced in the regulation to the latest versions of the documents and adds a definition for "mariculture" and "triploid oyster." The amendment also includes stylistic changes to correct for spelling, clarity, readability, grammar, and codification for overall improvement of the text of the regulation.

A Notice of Drafting for these amendments was published in the *State Register* on May 27, 2016.

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Section-by-Section Discussion of Amendments

Pursuant to letter dated February 28, 2017 from the Senate Medical Affairs Committee, the Department withdrew and resubmitted revised Document 4736 on February 28, 2017 for legislative review to indicate that oysters harvested during months that required additional temperature controls (i.e. summer months) will be limited only to triploid oysters. The changes are reflected in Document 4736 where applicable.

61-47.A.2.(jj)

Added definition of mariculture pursuant to a public comment. This definition is from the Marine Resources Act, Section 50-5-15(33). The Marine Resources Act is implemented by the South Carolina Department of Natural Resources. Because the Department and the South Carolina Department of Natural Resources both regulate shellfish mariculture activities in the state, it is appropriate to use a consistent definition for mariculture.

61-47.A.2.(jj) and (kk)

Subsections were renumbered pursuant to a public comment.

61-47.A.2.(ll)

Subsection was renumbered pursuant to a public comment. The amendment is to change the reference date of the document to the latest version of the document.

61-47.A.2.(mm) through (kkk)

Subsections were renumbered pursuant to a public comment.

61-47.A.2.(mmm)

Add definition of triploid oyster for clarity and consistency. The definition was provided by a geneticist with the South Carolina Department of Natural Resources.

61-47.A.2.(lll) through (nnn)

Subsections renumbered.

61-47.C.1.(f)

This amendment is added to require harvesters to have Department approved annual training and certified shippers to only receive shellfish from harvesters that have completed Department approved annual training. The annual training for harvesters will include a discussion of state regulations and overview of best practices for the safe and sanitary harvesting and handling of shellfish. The training is needed given the more stringent harvesting and handling requirements on the harvester during the summer months. The training will be provided at no cost to the harvesters.

61-47.C.2.(b)

Two subsections (61-71.C.2.(b) and (c)) are combined to create this new subsection. This amendment is to improve readability and to more clearly explain the meaning of shellstock temperature control and how and when shellstock temperature control is to be applied by certified shippers.

61-47.C.2.(c)

This subsection includes the same text found in the first sentence in the current subsection 61-47.C.2.(c)(1).

61-47.C.2.(d)

This subsection is added to indicate that the months that require additional temperature controls will be determined annually and presented in the South Carolina Vibrio Control Plan. This plan uses existing data, such as air and water temperatures, to develop the procedures that South Carolina will follow to reduce the health risk posed by Vibrio bacteria to the consumers of shellfish harvested in the state. The plan is a requirement for South Carolina to remain in compliance with the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

61-47.C.2.(e)

This text is new and clarifies that only maricultured triploid oysters and clams of the species *Mercenaria mercenaria*, unless other clam species are approved by Department, can be harvested in the state during months that require additional temperature controls. Triploid oysters, which are only maricultured, can be genetically tested and verified not to be naturally occurring diploid oysters. Limiting summer harvest to only maricultured triploid oysters will enhance compliance and enforcement and protect public health by ensuring that only maricultured oysters reach the market.

61-47.C.2.(e)(1)

This subsection includes similar text to the text found in the second and third sentences of the current item 61-47.C.2.(c)(1) and describes the temperature control requirements for clams during months that require additional temperature controls. Text is added to clarify that clams in this subsection means clams of the species *Mercenaria mercenaria*. This is the only clam species commercially harvested in the state and is specifically required to have controls for Vibrio bacteria by the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish. The text does allow the Department to consider other clam species under this subsection.

61-47.C.2.(e)(2)

This subsection is new text and includes technical requirements for the harvesting and handling of maricultured triploid oysters during months that require additional temperature controls. These harvesting and handling requirements are based on the following: the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish that is administered by the U.S. Food and Drug Administration (“FDA”), the Vibrio bacteria risk calculator provided by FDA, requirements used by other states for months that require additional temperature controls, and consultation with FDA Shellfish Specialists. For maricultured triploid oysters harvested during months that require additional temperature controls, it is proposed that the oysters be continuously submerged for a minimum of 14 days before being harvested for sale and consumption. The oysters are submerged to prevent exposure to the higher temperatures experienced by naturally occurring oysters that are exposed to the warm air and sunlight during daily tidal cycles.

61-47.C.2.(e)(2)(d)

Pursuant to a public comment, this new subsection is added to clarify that certified shippers that choose to receive and distribute oysters harvested from South Carolina waters are responsible for ensuring that the oysters have been maricultured and harvested and handled in compliance with the requirements proposed for the summer harvest of oysters included in subsection 61-47.C.2.(e)(2).

61-47.C.2.(f)

This is a new subsection with a new heading to clarify the contents of this subsection.

61-47.C.2.(f)(1) and (2)

These subsections include text found in the current regulation under items 61-47.C.2.(c)(2) and (3). These items are moved to this subsection to provide clarity about the purpose of the items and to accommodate new subsections that have been added.

61-47.C.2.(g)

Subsection renumbered and subsection cross reference renumbered to match amended text.

61-47.C.2.(g)(10)

Pursuant to a public comment, this subsection is amended to change the reference date of the document to the latest version of the document.

61-47.C.2.(h)

Subsection renumbered.

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61-47.C.2.(i)

Subsection renumbered.

61-47.C.3.(b)(4)

Subsection cross reference added to include newly added text.

61-47.I.4

Wording change to be consistent with wording of amended text in C.2.(b).

61-47.I.5

Subsection cross reference added to include newly added text and renumbered subsection.

61-47.I.6

Subsection cross reference renumbered to match amended text.

61-47.I.7

Subsection cross reference renumbered to match amended text.

61-47.O.6.(a)

Text is added to clarify that the required operation plan should include the operational requirements found in 61-47.C.2.(e)(2).

61-47.O.6.(e)

Change punctuation.

61-47.O.6.(f)

This subsection is added to require the operational plan to include the record keeping procedures that will be used to document compliance with the requirements found in item C.2.(e)(2).

Instructions: Amend Regulation 61-47 pursuant to each individual instruction provided with the text of the amendments below.

Text:

Add new subitem 61-47.A.2.(jj):

(jj) Mariculture means controlled cultivation in confinement of marine and estuarine organisms in salt waters.

Revise 61-47.A.2.(jj) and (kk) to read:

(kk) Marina means any of the following:

- (1) locked harbor facility;
 - (2) any facility which provides fueling, pump-out, maintenance or repair services (regardless of length);
 - (3) any facility which has effective docking space of greater than 250 linear feet or provides moorage for more than 10 boats;
 - (4) any water area with a structure which is used for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than ten boats, such as a mooring field;
- or

(5) a dry stack facility.

(ll) National Shellfish Sanitation Program means the program cooperatively developed by state, United States Food and Drug Administration, and shellfish industry representatives resulting in sanitary control guidelines that ensure that the shellfish produced in accordance with guidelines will be safe and sanitary.

Revise 61-47.A.2.(ll) to read:

(mm) National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish means the 2015 version of the United States Food and Drug Administration document with that title that consists of a Model Ordinance, supporting guidance documents, recommended forms, and other related materials associated with the National Shellfish Sanitation Program. Portions of the document are incorporated by reference herein and such referenced sections shall have effect as if fully recited within the text of this regulation. Copies can be obtained through the U.S. Food and Drug Administration or the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201.

Revise 61-47.A.2.(mm) through (kkk) to read:

(nn) Person means any individual, partnership, company, corporation, trustee, association, agency, or any public or private entity.

(oo) Poisonous or Deleterious Substance means a toxic compound occurring naturally or added to the environment that may be found in shellfish or shellfish growing waters for which a regulatory tolerance limit or action level has been established or may be considered harmful to public health. Examples of naturally occurring substances would include paralytic shellfish toxins and trace elements geologically leached from the environment, such as mercury; examples of added substances would include agricultural pesticides and polynuclear aromatics.

(pp) Post Harvest Processing means processing of shellfish for the purpose of added safety or quality that involve hazards not addressed by controls in the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish Model Ordinance for shucker-packers, repackers, shellstock shippers, or reshippers.

(qq) Process means those actions related to the operation of the Certified Shipper facilities of Depuration Processors(DP), Shucker-Packers(SP), Repackers(RP), Shellstock Shippers(SS), and Reshippers(RS).

(rr) Processor means a certified shipper.

(ss) Prohibited means an administrative classification that disallows shellfish harvest for human consumption.

(tt) Prohibited Area means a growing area that has been closed by the Department for the harvesting of shellfish for any purpose related to direct human consumption.

(uu) Raw means shellfish that have not been thermally processed:

(1) to an internal temperature of one hundred and forty-five (145) degrees Fahrenheit or greater for fifteen (15) seconds (or equivalent); or

(2) to alter the organoleptic characteristics.

(vv) Relaying means the transfer of shellstock from restricted areas or conditionally restricted areas to approved or conditionally approved areas for natural biological cleansing using the ambient environment as a treatment system.

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(ww) Repacker (RP) means a certified shipper who packs shucked shellfish into containers other than those in which they were originally packaged. A repacker may act as a shellstock shipper.

(xx) Repacking means the transfer of shucked shellfish into containers other than those in which they were originally packaged.

(yy) Reshipper (RS) means certified shippers who purchase shellfish from other certified shippers and sell or distribute the shellfish without repackaging.

(zz) Restricted means a shellfish water quality classification that does not meet approved water quality criteria, disallows direct marketing of shellfish, and allows shellfish harvest only by special permit.

(aaa) Restricted Area means a growing area that has been classified by the Department as not meeting water quality criteria that would allow harvesting shellfish for direct marketing for human consumption. In a restricted area, shellfish may be harvested only by special permit and direct marketing of harvested shellfish is not allowed.

(bbb) Sanitary Survey Report means a written evaluation of all actual and potential pollution sources and environmental factors that affect shellfish growing area water quality.

(ccc) Sanitize means adequate treatment of food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance and in substantially reducing the number of other microorganisms. Such treatment shall be safe and not adversely affect shellfish.

(ddd) Scheduled Depuration Process means the process that places shellfish harvested from conditionally restricted, restricted, or approved waters into a controlled aquatic environment selected by the processor and that has been demonstrated to the Department to effectively reduce the level of fecal coliform bacteria in live shellfish.

(eee) Seed means juvenile shellstock intended for growth to market size.

(fff) Shellfish means all edible species of oysters, clams, mussels, and scallops; either shucked or in the shell; fresh or fresh frozen; whole or in part, except that scallops shall be excluded when the final product is the adductor muscle only.

(ggg) Shellstock means live molluscan shellfish in the shell.

(hhh) Shellstock Shipper (SS) means a certified shipper who grows, harvests, buys, or sells shellstock. A shellstock shipper is not certified to shuck shellfish or repack shucked shellfish. A shellstock shipper may repackage shellstock or act as a reshipper.

(iii) Shucked Shellfish means shellfish that have been removed from their shells.

(jjj) Shucker-Packer (SP) means a certified shipper who shucks and packs shellfish. A shucker-packer may act as a repacker, shellstock shipper, or reshipper.

(kkk) State Shellfish Control Authority or Authority means the South Carolina Department of Health and Environmental Control or, if in reference to another state, the state agency having the primary authority to implement public health-related shellfish regulations.

(lll) Systematic Random Sampling is a field sampling and data analysis design that employs a preestablished sampling schedule and assumes that a statistically representative cross section of all meteorological, hydrographic, and/or other pollution events will be included in the data set.

Add new subitem 61-47.A.2.(mmm):

(mmm) Triploid oyster means an oyster having three sets of homologous chromosomes.

Revise 61-47.A.2.(lll) through (nnn) to read:

(nnn) Vehicle means any truck, car, bus, trailer, railcar, aircraft, boat, ship, barge, dredge, or other means of conveyance by which shellfish is transported from one location to another.

(ooo) Vessel means any boat, ship, barge, dredge, or other type of watercraft used for the commercial harvest or transport of shellfish for human consumption.

(ppp) Wet Storage means storage of marketable shellfish in water after initial harvest.

Add new subitem 61-47.C.1.(f) to read:

(f) Harvesters shall complete Department approved training annually. The certified shippers shall only receive shellstock from harvesters who have completed Department approved training annually.

Revise 61-47.C.2.(b) and (c) and add new subitems 61-47.C.2.(d), (e) and (f) to read:

(b) Shellstock Temperature Control.

(1) Shellstock Temperature Control is the management of the internal temperature of shellstock by means of ice, mechanical refrigeration or other approved means which is capable of lowering the temperature of the shellstock and will maintain shellstock at fifty (50) degrees Fahrenheit (ten (10) degrees Centigrade) or less. Ice must be from a Department approved source.

(2) Within two (2) hours of receiving shellstock from a harvester, certified shippers shall implement procedures to control shellstock temperature as described in item C.2.(b)(1). For purposes of this item, shellstock shall be considered received when the shellstock are located in any portion of a certified shipper facility. Nothing in this item shall be construed to increase the maximum allowable time period for shellstock temperature control.

(c) Shellstock harvested during months that do not require additional temperature controls shall be placed under temperature control by the receiving certified shipper within eighteen (18) hours from the time of harvest.

(d) Months that do require additional temperature controls will be designated in the latest version of the South Carolina Vibrio Control Plan, which is updated annually in accordance with the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

(e) Shellstock harvested during months that do require additional temperature controls shall be limited to clams as described in item C.2.(e)(1) and maricultured triploid oysters and shall be managed as follows:

(1) Clams shall be under temperature control by the receiving certified shipper within twelve (12) hours from the time of harvest or may be tempered for a longer period of time using a Department approved tempering plan. For the purpose of this item, clams means the species *Mercenaria mercenaria*, unless otherwise approved by the Department.

(2) Harvesters shall only harvest maricultured triploid oysters submerged for a minimum of 14 days prior to harvest. The certified shipper shall place the triploid oysters under temperature controls sufficient to reach an internal temperature of fifty (50) degrees Fahrenheit (ten (10) degrees Centigrade) or less within two (2) hours from the time the triploid oysters are received by the certified shipper. For purposes of this item, triploid oysters

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shall be considered received by the certified shipper when the triploid oysters are located in any portion of a certified shipper facility. The time from harvest to receipt by a certified shipper shall be managed as follows:

(a) The certified shipper shall only receive triploid oysters harvested on the same calendar day. The certified shipper shall not receive triploid oysters after 10:00 A.M. unless the triploid oysters are iced or mechanically refrigerated as described in item C.2.(e)(2)(c).

(b) For triploid oysters received by the certified shipper after 10:00 AM, the certified shipper shall only receive triploid oysters that are:

(i) within 4 hours from the start of harvest; and

(ii) completely covered by ice or mechanically refrigerated at an ambient air temperature of forty-five (45) degrees Fahrenheit (seven (7) degrees Centigrade) or less.

(c) The harvester shall only deliver triploid oysters harvested on the same calendar day to a certified shipper. For triploid oysters received by the certified shipper after 10:00 AM, the harvester shall place triploid oysters into cooling immediately after harvesting by completely covering the triploid oysters with ice or by mechanical refrigeration maintained at an ambient air temperature of forty-five (45) degrees Fahrenheit (seven (7) degrees Centigrade) or less. After being placed into cooling, the harvester shall keep the triploid oysters in cooling continuously until received by the certified shipper. The harvester shall follow the procedures for cooling and maintaining continuous cooling for the triploid oysters that are included in the operational plan required in item O.6. The harvester shall use ice from a Department approved source.

(d) It shall be unlawful for a certified shipper to receive at their facility oysters harvested from South Carolina waters during the months that require additional controls that have not been maricultured and harvested and handled in compliance with the requirements of item C.2.(e)(2)(a)(b) and (c). Certified shippers that choose to receive and distribute oysters harvested from South Carolina waters during the months that require additional controls must incorporate into their HACCP plan additional receiving controls to ensure the triploid oysters being received and distributed have been maricultured and harvested and handled in compliance with the requirements of item C.2.(e)(2)(a)(b) and (c).

(f) Temperature control requirements for confirmed illnesses.

(1) In the event a growing area or portion of a growing area is confirmed as the original source of product associated with two (2) or more *Vibrio vulnificus* illnesses within the past (10) years, the maximum hours to temperature control for shellfish shall, upon notice provided by the Department, be in accordance with the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish Model Ordinance, VIII. Control of Shellfish Harvesting. Shellfish not meeting times and temperature controls may, with Department approval, be diverted to post-harvest processing as defined in this regulation or be deemed adulterated.

(2) In the event a growing area or portion of a growing area is confirmed as the original source of product associated with two (2) or more *Vibrio parahaemolyticus* illnesses within the past five (5) years, the maximum hours to temperature control for shellfish shall, upon notice provided by the Department, be in accordance with the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish Model Ordinance, VIII. Control of Shellfish Harvesting. Shellfish not meeting times and temperature controls may, with Department approval, be diverted to post-harvest processing as defined in this regulation or be deemed adulterated.

Revise 61-47.C.2.(d) to read:

(g) Identification of Shellstock in the Marketplace.

(1) When at the facilities of a certified shipper, unless certified as a reshipper (RS), shellstock shall be tagged in accordance with the provisions of item C.1.(c) or item C.2.(g)(2) at all times.

Revise 61-47.C.2.(d)(10) to read:

(10) All shellstock intended for raw consumption shall include a consumer advisory. The following statement, based upon guidance provided in Section 3-603.11 of the United States Food and Drug Administration 2013 Food Code (Copies can be obtained through the U.S. Food and Drug Administration or the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201.), or an equivalent statement, shall be included on all shellstock: "RETAILERS, INFORM YOUR CUSTOMERS: Consuming raw or undercooked meats, poultry, seafood, shellfish or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.";

Revise 61-47.C.2.(e) to read:

(h) Shucked Shellfish Temperature Control. Shucked shellfish shall be stored and maintained in accordance with the following:

Revise 61-47.C.2.(f) to read:

(i) Shucked Shellfish Labeling. Prior to sale or distribution, each individual container of shucked shellfish shall be labeled as follows:

Revise 61-47.C.3.(b)(4) to read:

(4) Nothing in item C.3.(c)(3) shall be construed to make unlawful the intrastate shipment of shellstock harvested from within the State provided such shellstock have not exceeded any maximum allowable time period for temperature control as established by item C.2.(c) and C.2.(e).

Revise 61-47.I.4 to read:

4. Shellstock Temperature Control. Certified shippers shall manage shellstock temperature in accordance with the provisions of item C.2(b).

Revise 61-47.I.5 to read:

5. Temperature Control. Certified shippers shall control shellfish temperatures in accordance with the provisions of items C.2.(c), C.2.(e) and C.2(h).

Revise 61-47.I.6 to read:

6. Shell stock Identification. Certified shippers shall identify shell stock in accordance with item C.2. (g)(1) Of this Regulation.

Revise 61-47.I.7 to read:

7. Shucked Shellfish Labeling. Certified shippers shall label shucked shellfish in accordance with item C.2. (i)(1) Of this Regulation.

Revise 61-47.O.6 to read:

6. Mariculture Permit Areas. Operators of shellfish mariculture permit areas permitted by the South Carolina Department of Natural Resources shall provide the Department with a written operational plan that shall include:

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(a) A description of activities associated with the operation including, but not limited to, the operational requirements in C.2. (e)(2);

(b) The specific site and boundaries in which shellfish culture activities will be conducted;

(c) The types and locations of any structures, including rafts, pens, cages, nets, tanks, ponds, or floats utilized in the aquaculture operation;

(d) The type and source of shellfish, including seed, to be cultured and harvested;

(e) Documentation of the source of seed shell stock

(f) Record keeping to document compliance with the requirements described in item C.2. (e)(2) For maricultured shellfish harvested during months that do require additional temperature controls.

Fiscal Impact Statement:

Implementation of these amendments may require additional resources to support the increased number of field and facility compliance inspections needed to monitor the increased shellfish harvesting and sales during the summer months. For example, inspections will be needed to ensure maricultured triploid oysters are brought under temperature control in accordance with the regulation to protect public health. The resource demands on the Department and State government will depend on how much the shellfish industry grows and harvesting activities increase during the summer months in response to the additional business opportunities created by this amendment.

Statement of Need and Reasonableness:

The following is based on an analysis of the factors listed in 1976 Code Section 1-23-115(C) (1)-(3) and (9) through (11):

DESCRIPTION OF REGULATION

Purpose: The Department amends R.61-47 to provide specific technical requirements regarding the harvesting and handling of clams and maricultured triploid oysters during the summer months (*i.e.*, months that require additional temperature controls) in a manner that is consistent with the national shellfish sanitation program and protects the health of the consumers of shellfish. The time period for additional temperature controls for the summer harvesting and handling of shellfish is May 16th through September 30th, unless otherwise specified. The amendment includes a requirement for certified shippers to only accept shellfish from harvesters that have received annual training on key regulatory requirements and the safe and sanitary practices related to the harvesting and handling of shellfish in South Carolina. The amendment updates several documents referenced in the regulation to the latest versions of the documents and adds a definition for “mariculture” and “triploid oyster.” The amendment also includes stylistic changes to correct for spelling, clarity, readability, grammar, and codification for overall improvement of the text of the regulation.

Legal Authority: 1976 Code Section 44-1-140.

Plan for Implementation:

Upon approval by the General Assembly and publication in the State Register as final regulations, a copy of R.61-47, to include these amendments, will be available electronically on the Department’s internet site at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/Water/> under the Water category and subsequently in the Code of Regulations of the S.C. Code of Regulations. Printed copies will be available for a fee from the Department’s Freedom of Information Office.

DETERMINATION OF NEED AND REASONABLENESS OF THE REGULATION AMENDMENT AND EXPECTED BENEFITS:

The amendment is needed and reasonable because it clarifies the harvest and handling requirements for clams during summer months and allows the harvest of maricultured triploid oysters during summer months. The amendment allows the South Carolina shellfish industry to expand their markets through the sale of maricultured triploid oysters harvested during the summer months in a manner that is consistent with the national shellfish sanitation program and protects the health of the consumers of shellfish. Historically, South Carolina oysters have not been available for sale during the summer months. Oysters currently are available for purchase during the summer in South Carolina and other states. These oysters are obtained from other states that allow the summer harvest of oysters. Most other states that produce oysters allow the summer harvest of oysters for sale and consumption. Oysters harvested during summer months in other states are harvested and handled under more restrictive conditions than oysters harvested during cooler months to protect the public that consumes summer-harvested oysters. The amendment includes more restrictive harvesting and handling requirements for the summer months to protect public health.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of these amendments may require additional resources to support the increased number of field and facility compliance inspections needed to monitor the increased shellfish harvesting and sales during the summer months. For example, inspections will be needed to ensure maricultured triploid oysters are brought under temperature control in accordance with the regulation to protect public health. The resource demands on the Department and State government will depend on how much the shellfish industry grows and harvesting activities increase during the summer months in response to the additional business opportunities created by this amendment.

External Costs: There will be external costs for implementing the amendment to this regulation. The external costs will be incurred by shellfish harvesters and certified shippers that decide to expand their operations to participate in the harvesting, handling or sale of maricultured triploid oysters during the summer months. However, those who incur these costs may now realize the below External Benefits.

External Benefits: The amendments will provide the South Carolina shellfish industry the opportunity to sell South Carolina maricultured triploid oysters during months of the year when, historically, South Carolina oysters have not been available for sale.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There is no anticipated detrimental effect on the environment.

The amendment can affect public health by allowing the public to consume South Carolina maricultured triploid oysters that have been harvested during the summer months. Naturally occurring harmful bacteria, such as *Vibrio* bacteria, occur at higher levels in shellfish during the summer months due to the higher water and air temperatures. *Vibrio* bacteria can cause severe illness or death if consumed by individuals with compromised immune systems. The amendments include more restrictive harvesting and handling requirements for shellfish during the summer months to mitigate the increased risk posed by harmful bacteria, especially *Vibrio* bacteria, during those months.

34 FINAL REGULATIONS

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

There is no anticipated detrimental effect on the environment.

If the amendment is not implemented, there will be no detrimental effect on public health because molluscan shellfish harvesting and sales during the summer months would remain limited to only clams as is currently the case in South Carolina.

Statement of Rationale:

The Department is amending R.61-47, Shellfish to provide specific technical requirements regarding the harvesting and handling of clams and maricultured triploid oysters during the summer months (i.e., months that need additional temperature controls). The time period for additional temperature controls for the summer harvesting and handling of shellfish is May 16th through September 30th, unless otherwise specified. The amendment allows the South Carolina shellfish industry to expand their markets through the sale of maricultured triploid oysters harvested during the summer months in a manner that is consistent with national shellfish sanitation program and protects the health of the consumers of shellfish.