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# SOUTH CAROLINA STATE REGISTER

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of the  
GENERAL ASSEMBLY

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

# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

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

## **2011 PUBLICATION SCHEDULE**

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

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

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

## **REPRODUCING OFFICIAL DOCUMENTS**

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## **PUBLIC INSPECTION OF DOCUMENTS**

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

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

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

## **EMERGENCY REGULATIONS**

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

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

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

## **EFFECTIVE DATE OF REGULATIONS**

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

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

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

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4126			South Carolina Pesticide Control	5/11/11	Clemson University-State Crop Pest Comm.
4141			Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	5/11/11	Department of Natural Resources
4135			Rehabilitation of Designated Historic Buildings	5/11/11	Department of Archives and History
4154			Food and Cosmetics	5/11/11	Department of Agriculture
4130			Air Pollution Control Regulations and Standards: Standards of Performance for Asbestos Projects	5/11/11	Department of Health and Envir Control
4132			Environmental Protection Fees (Radioactive Material Licenses Fees)	5/11/11	Department of Health and Envir Control
4153			SC Safe Home Program Wind Inspectors and Contractors	5/11/11	Department of Insurance
4139			Environmental Protection Fees (Drinking Water Fees)	5/12/11	Department of Health and Envir Control
4163			Board of Landscape Architectural Examiners	5/21/11	Board of Landscape Architectural Exam
4164			Child Labor	5/21/11	Division of Labor
4137			Customer Deposits and Deposit Retention	5/24/11	Public Service Commission
4138			Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms	5/24/11	Public Service Commission
4156			Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	5/24/11	State Board of Education
4158			Requirements for Certification at the Advanced Level	5/24/11	State Board of Education
4145			South Carolina HOPE Scholarship	5/24/11	Commission on Higher Education
4146			LIFE Scholarship & LIFE Scholarship Enhancement	5/24/11	Commission on Higher Education
4147			Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions	5/24/11	Commission on Higher Education
4148			South Carolina Need-based Grants Program	5/24/11	Commission on Higher Education
4149			Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	5/24/11	Commission on Higher Education
4159			Sentencing Reform	5/26/11	Dept. of Probation, Parole and Pardon Ser
4169			Unemployment Insurance Reform (Updates to Article 1)	6/01/11	Department of Employment and Workforce
4170			Unemployment Insurance Reform (Updates to Article 2)	6/01/11	Department of Employment and Workforce
4171			Unemployment Insurance Reform (Updates to Article 3)	6/01/11	Department of Employment and Workforce
4168			Perpetual Care Cemetery Board	6/01/11	SC Perpetual Care Cemetery Board
<b>Committee Requested Withdrawal</b>					
4162			Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	Tolled	Environmental Certification Board

## 2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4126	South Carolina Pesticide Control	Agriculture and Natural Resources	Agriculture and Natural Resources
4141	Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	Agriculture and Natural Resources	Fish, Game and Forestry
4135	Rehabilitation of Designated Historic Buildings	Medical, Military, Pub & Mun Affairs	Judiciary
4154	Food and Cosmetics	Medical, Military, Pub & Mun Affairs	Agriculture and Natural Resources
4130	Air Pollution Control Regulations and Standards; Standards of Performance for Asbestos Projects	Agriculture and Natural Resources	Agriculture and Natural Resources
4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
4153	SC Safe Home Program Wind Inspectors and Contractors	Labor, Commerce and Industry	Banking and Insurance
4139	Environmental Protection Fees (Drinking Water Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
4163	Board of Landscape Architectural Examiners	Labor, Commerce and Industry	Labor, Commerce and Industry
4164	Child Labor	Labor, Commerce and Industry	Labor, Commerce and Industry
4137	Customer Deposits and Deposit Retention	Labor, Commerce and Industry	Judiciary
4138	Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms	Labor, Commerce and Industry	Judiciary
4156	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	Education and Public Works	Education
4158	Requirements for Certification at the Advanced Level	Education and Public Works	Education
4145	South Carolina HOPE Scholarship	Education and Public Works	Education
4146	LIFE Scholarship & LIFE Scholarship Enhancement	Education and Public Works	Education
4147	Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions	Education and Public Works	Education
4148	South Carolina Need-based Grants Program	Education and Public Works	Education
4149	Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	Education and Public Works	Education
4159	Sentencing Reform	Judiciary	Corrections and Penology
4169	Unemployment Insurance Reform (Updates to Article 1)	Labor, Commerce and Industry	Labor, Commerce and Industry
4170	Unemployment Insurance Reform (Updates to Article 2)	Labor, Commerce and Industry	Labor, Commerce and Industry
4171	Unemployment Insurance Reform (Updates to Article 3)	Labor, Commerce and Industry	Labor, Commerce and Industry
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
<b>Committee Requested Withdrawal</b>			
4162	Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	Agriculture and Natural Resources	Labor, Commerce and Industry

**Executive Order No. 2010-19**

**WHEREAS**, a vacancy exists in the office of Anderson County Clerk of Court as a result of the removal of Cathy M. Phillips from office pursuant to Executive Order 2010-16 which arose from her conviction for failure to collect or pay taxes withheld from employees in violation of S.C. Code Ann. § 12-54-44(8)(3); and

**WHEREAS**, the undersigned is authorized to appoint a County Clerk of Court in the event of a vacancy pursuant to S.C. Code Ann. §§ 1-3-220(2), 4-11-20(1), and 14- 17-30; and

**WHEREAS**, Richard Alan Shirley, residing at 1109 Thornehill Drive, Anderson, South Carolina 29621, is a fit and proper person to serve as the Anderson County Clerk of Court.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Richard Alan Shirley as Clerk of Court of Anderson County until the next general election for this office and until his successor shall qualify.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 20th DAY OF DECEMBER, 2010.**

**MARK SANFORD**  
Governor

**Executive Order No. 2011-01**

**WHEREAS**, on January 9, 2011, the National Weather Service issued a Winter Storm Warning for the state with the potential to receive up to ten inches of snow in some areas creating extremely hazardous conditions; and

**WHEREAS**, temperatures were forecast to remain below freezing throughout the day and night making road conditions extremely hazardous; and

**WHEREAS**, the effects of the storm have required assistance for stranded motorists and medical emergencies, downed trees, road debris, power outages, isolated citizens and surpassed the capabilities of local governments to respond to and recover from its effects, thus requiring logistical support for local governments; and

**WHEREAS**, these conditions posed a threat to the safety of the state's citizens; therefore, on January 10, 2011, State offices in all South Carolina counties were ordered closed for Monday, January 10, 2011.

**NOW, THEREFORE**, by the virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I hereby declare a State of Emergency exists as of January 10, 2011, and direct the South Carolina Emergency Operations Plan be placed in effect to support the responsibilities and tasks as warranted by these conditions. I further authorize that emergency expenditures required for ensuring the safety of the citizens of South Carolina as authorized by the Director, Emergency Management Division, shall be covered under the State Contingency Fund.

#### **4 EXECUTIVE ORDERS**

I further direct that the South Carolina National Guard be placed on a standby status and, at the discretion of the Adjutant General, in consultation with the Governor's Office, and in coordination with South Carolina Emergency Management Division, specified units of the National Guard be placed on active duty status to assist civil authorities and to take all reasonable precautions as is necessary for the preservation of life and property.

**FURTHERMORE**, pursuant to S.C. Code 8-11-57, as amended by Act 356 of 2002, Part IX, Section D, all State employees absent from work in part or in full as directed, on January 10, 2011, due to this hazardous weather emergency are hereby granted leave with pay. The provisions of this Executive Order shall remain in full force and effect until further order of this office.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 10th DAY OF JANUARY, 2011.**

**MARK SANFORD**  
**Governor**

#### **Executive Order No. 2011-02**

**WHEREAS**, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, and liquid petroleum gas (LPG) to residential and commercial establishments in an essential need of the public during the wintertime and any interruption threatens the public welfare; and

**WHEREAS**, the continued period of cold weather has increased the demand for the above-referenced fuels and threatened the uninterrupted delivery of those fuels to residential and commercial customers; and

**WHEREAS**, the Federal Motor Carrier Safety regulations, 49 CFR § 390, et seq., limit the hours operators of commercial motor vehicles may drive; and

**WHEREAS**, 49 CFR § 390.23 allows the Governor of a State to suspend these rules and regulations for up to 30 days if the Governor determines that an emergency condition exists; and

**WHEREAS**, S.C. Code Ann. § 56-5-70 requires that the Governor of South Carolina to declare an emergency for the purposes of suspending regulations pursuant to 49 CFR § 390.23 whenever a similar emergency is declared in North Carolina or Georgia; and

**WHEREAS**, on January 10, 2011, a state of emergency was declared in South Carolina due to severe weather and on December 13, 2010, a state of emergency was declared in Georgia for the purpose of suspending rules and regulations that limit the hours operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of liquid petroleum gas throughout Georgia.

**NOW, THEREFORE**, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and the United States, I hereby declare a State of Emergency for the purpose of suspending the federal rules and regulations that limit the hours operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, and LPG throughout South

Carolina. This emergency justifies a suspension of Part 395 (drivers' hour of service) of Title 49 of the Code of Federal Regulations. The suspension shall remain in effect for 30 days or until the emergency condition ceases to exist, whichever is less.

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

**BE IT FURTHER ORDERED** that this Order does not suspend the operation of any state or federal laws or regulations within the State of South Carolina except as specifically described in the Order. All other laws and regulations remain in full force and will be enforced.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 14th DAY OF JANUARY, 2011.**

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

**Executive Order No. 2011-03**

**WHEREAS**, on January 9, 2011, the National Weather Service issued a Winter Storm Warning for the state with the potential to receive up to ten inches of snow in some areas;

**WHEREAS**, temperatures were forecast to drop below freezing for several days making the road conditions hazardous;

**WHEREAS**, these conditions posed a threat to the safety of the state's citizens for several days, therefore state government offices in all counties were closed on Monday, January 10, 2011. On Tuesday, January 11, 2011, state government offices were closed in 24 western counties: Abbeville, Anderson, Edgefield, Greenville, Greenwood, McCormick, Oconee, Pickens, Cherokee, Chester, Lancaster, Laurens, Spartanburg, Union, York, Fairfield, Kershaw, Lexington, Newberry, Richland, Saluda, Chesterfield, Marlboro, and Dillon and state government offices were issued a two-hour delay in the remaining 22 eastern counties: Calhoun, Darlington, Lee, Florence, Marion, Horry, Sumter, Clarendon, Williamsburg, Orangeburg, Dorchester, Charleston, Berkeley, Georgetown, Aiken, Barnwell, Bamberg, Allendale, Hampton, Colleton, Beaufort and Jasper. On Wednesday, January 13, 2011, state government offices were issued a 2-hour delay in 24 counties : Abbeville, Anderson, Edgefield, Greenville, Greenwood, McCormick, Oconee, Pickens, Cherokee, Chester, Lancaster, Laurens, Spartanburg, Union, York, Fairfield, Kershaw, Lexington, Newberry, Richland, Saluda, Calhoun, Marlboro, and Dillon; and

**WHEREAS**, the hazardous conditions which began on January 9, 2011, no longer present a danger to the citizens of the state.

**NOW, THEREFORE**, pursuant to S.C. Code 8-11-57, all state employees absent from work as directed on January 10, 11, and 12 due to the closing of state offices caused by hazardous weather conditions are hereby granted leave with pay.

## **6 EXECUTIVE ORDERS**

**FURTHER**, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I declare that a state of emergency no longer exists and hereby declare that Executive Order 2011-01 is cancelled, rescinded, and from this date declared null and void.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 14<sup>TH</sup> DAY OF JANUARY, 2011.**

**NIKKI R. HALEY**  
Governor

### **Executive Order No. 2011-04**

**WHEREAS**, by Executive Order 2011-01, a state of emergency was declared in South Carolina due to a severe winter storm that began on January 10, 2011; and

**WHEREAS**, it became necessary for many banks and savings and loan institutions to close as a result of the hazardous weather that occurred on January 10-12, 2011.

**NOW THEREFORE**, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, and specifically section 53-5-55 of the South Carolina Code of Laws, I hereby declare January 10-12, 2011, legal holidays for banks and savings and loan institutions in the State of South Carolina.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 18<sup>TH</sup> DAY OF JANUARY, 2011.**

**NIKKI R. HALEY**  
Governor

### **Executive Order No. 2011-05**

**WHEREAS**, the Grand Jurors of Hampton County indicted Henry Fields, Mayor of the Town of Varnville, on January 13, 2011, for misappropriation of public funds in violation of the Common Law of South Carolina; and

**WHEREAS**, Section 8-1-110 of the South Carolina Code of Laws provides that “[w]henver it shall be brought to the notice of the Governor by affidavit that any officer who has the custody of public or trust funds is probably guilty of ... the appropriation of public or trust funds to private use then ... the Governor shall suspend such officer and appoint one in his stead until he shall have been acquitted by the verdict of a jury;” and

**WHEREAS**, Henry Fields was indicted by a county grand jury for a crime involving the appropriation of public funds to private use; and

**WHEREAS**, a certified true copy of the indictment against Henry Fields has been provided to me.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Henry Fields from the office of Mayor of the Town of Varnville until such time as he shall be formally acquitted or convicted.

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

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 19<sup>th</sup> DAY OF JANUARY, 2011.**

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

**Executive Order No. 2011-06**

**WHEREAS**, the State of South Carolina is vulnerable to a wide range of emergencies, including natural and technological disasters and disasters caused by weapons of mass destruction, all of which threaten the life, health, and safety of its people; damage and destroy property; disrupt services and everyday business and recreational activities; and impede economic growth and development; and

**WHEREAS**, this vulnerability is exacerbated by the state's growing population, especially the growth in the number of persons residing in coastal areas, in the elderly population, in the number of seasonal vacationers, and the number of persons with special needs; and

**WHEREAS**, the state must take all prudent action to reduce the vulnerability of the people and property of this state; to prepare for the efficient evacuation and shelter of threatened or affected persons; to provide for the rapid and orderly provision of relief to persons and for the restoration of services and property; and to provide for the coordination of activities relating to emergency preparedness, response, recovery, and mitigation among and between agencies and officials of this state, with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with the private sector; and

**WHEREAS**, the Governor is responsible for the development and coordination of a system of Comprehensive Emergency Management pursuant to the South Carolina Code of Laws, Section 25-1-440 (b) and the South Carolina Emergency Management Division, Office of the Adjutant General, as established by Section 25-1-420, is responsible for coordinating the efforts of all state, county and municipal agencies and departments in developing a State Emergency Plan and maintaining a State Emergency Operations Center; and

**WHEREAS**, the South Carolina Emergency Operations Plan, dated February 11, 2011, developed pursuant to the requirement of Section 25-1-420 (a), has been reviewed and approved in accordance with the South Carolina Code of Regulations, 58-101.B., as establishing the policies and procedures to be followed by South Carolina Government in executing all emergency or disaster operations.

## 8 EXECUTIVE ORDERS

**NOW, THEREFORE**, pursuant to the powers conferred upon me by the Constitution and laws of the State of South Carolina, I do hereby order:

Section 1. That each department or agency of the State shall be responsible for emergency services as assigned in the South Carolina Emergency Operations Plan.

Section 2. That each department or agency assigned a primary responsibility in the Plan shall maintain, as directed by the Emergency Management Division, comprehensive standard operating procedures for executing its assigned emergency services. Each department or agency assigned a support responsibility shall assist the primary department or agency in maintenance of these procedures.

Section 3. That each department or agency assigned a primary or support responsibility in the Plan shall participate in scheduled exercises of the South Carolina Emergency Management Division and shall conduct training of personnel essential to the implementation of all assigned emergency functions.

Section 4. That all departments or agencies shall execute, without delay, the emergency functions so designated in the Plan or further ordered by me during any emergency or disaster through the initial use of existing agency appropriations and all necessary agency personnel, regardless of normal duty assignment.

Executive Order 2003-12 is hereby rescinded.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 27<sup>th</sup> DAY OF JANUARY, 2011.**

**NIKKI R. HALEY  
Governor**

### **Executive Order No. 2011-07**

**WHEREAS**, Henry Fields was suspended from his position as Mayor of the Town of Varnville on January 19, 2011; and

**WHEREAS**, the undersigned is authorized to appoint any officer in the event of a vacancy pursuant to Section 8-1-110 of the South Carolina Code of Laws; and

**WHEREAS**, Nathaniel August Shaffer residing at 140 Highland Street, Varnville, South Carolina, 29944, is a fit and proper person to serve as the Mayor of the Town of Varnville.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Nathaniel August Shaffer under the provisions set out in Section 8-1-110.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 2<sup>nd</sup> DAY OF FEBRUARY, 2011.**

**NIKKI R. HALEY  
Governor**

**BUDGET AND CONTROL BOARD  
BOARD OF ECONOMIC ADVISORS**

**NOTICE**

We have calculated the increase in the limit on compensation for noneconomic damages on a medical malpractice claim. Pursuant to Section 15-32-220(F), the limit on civil liability for noneconomic damages on a medical malpractice claim is adjusted each fiscal year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year 2004. The 2004 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2010, the Index published by the Bureau of Labor Statistics, *Monthly Labor Review*, Table 38, "Consumer Price Index for All Urban Consumers", increased by 15.2% from a value of 190.3 in December 2004 to 219.179 in December 2010. Therefore, the limit not to exceed \$350,000 would increase to \$403,115 against a single health care provider and a health care institution for each claimant for civil liability for noneconomic damages on medical malpractice claims when final judgment is rendered. Also, the limit not to exceed \$1,050,000 would increase to \$1,209,345 for all health care providers and all health care institutions for each claimant for civil liability for noneconomic damages on medical malpractice claims. The adjusted limitations on compensation for noneconomic damages become effective upon publication in the *State Register* pursuant to Section 1-23-40(2).

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**NOTICE**

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication February 25, 2011, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Beaufort County

Establishment of a home health agency restricted to serve Beaufort County  
J and D Healthcare Services  
Beaufort, South Carolina  
Project Cost: \$35,854.57

Establishment of a home health agency restricted to serve Beaufort County  
Roper St. Francis Home Health Care – Beaufort  
Beaufort County, South Carolina (address TBD)  
Project Cost: \$101,197

Affecting Florence County

Construction for the replacement of a linear accelerator with stereotactic radiosurgery capabilities  
QHG of South Carolina, Inc. d/b/a Carolinas Hospital System  
Florence, South Carolina  
Project Cost: \$8,396,807

## 10 NOTICES

Construction for the replacement of a linear accelerator with stereotactic radiosurgery capabilities  
McLeod Regional Medical Center  
Florence, South Carolina  
Project Cost: \$ 6,934,000

Affecting Georgetown County

Construction and renovation for the expansion of the surgery department to include the addition of four (4) operating rooms (ORs) for a total of eight (8) ORs  
Waccamaw Community Hospital  
Murrells Inlet, South Carolina  
Project Cost: \$25,429,144

Affecting Oconee County

Renovation and replacement of one existing open 0.23T Magnetic Resonance Imaging (MRI) unit and one existing 1.0T MRI unit with one fixed 1.5T MRI unit  
HHD Enterprises, LLC d/b/a Mountainview Medical Imaging  
Seneca, South Carolina  
Project Cost: \$1,785,525

Affecting Richland County

Renovation and addition of four (4) nursing homes beds, which will not participate in the Medicaid (Title XIX) Program, for a total of thirty-six (36) nursing home beds  
Lutheran Homes of South Carolina, Inc. d/b/a Rice Estate Rehabilitation and Healthcare  
Columbia, South Carolina  
Project Cost: \$50,000

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from February 25, 2011. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

Affecting Colleton County

Addition of four (4) psychiatric beds for a total of one hundred thirty-one (131) general acute care beds and four (4) psychiatric beds  
Walterboro Community Hospital, Inc., d/b/a Colleton Medical Center  
Walterboro, South Carolina  
Project Cost: \$8,000

Affecting Georgetown County

Construction of a free standing facility on the campus of Waccamaw Community Hospital to accommodate the relocation of existing radiation therapy services currently located at Francis B. Ford Cancer Treatment Center at Georgetown Memorial Hospital; purchase of a replacement linear accelerator and CT simulator; upon

completion, services will be shifted from Georgetown Memorial Hospital to the new center.  
Francis B. Ford Cancer Treatment Center at Waccamaw Community Hospital  
Murrells Inlet, South Carolina  
Project Cost: \$11,523,451

Affecting Charleston County

Renovation and expansion of the existing facility at 1849 Savage Road to accommodate the addition of two (2) operating rooms (ORs) and conversion of one (1) endoscopy room to one (1) operating room for a total of four operating rooms; outpatient clinical care and other functions will be relocated to a Medical Office Building (MOB) to be constructed at Lot #5 on Henry Tecklenberg Drive; replacement of the existing CT scanner when it is relocated to the new MOB  
The Surgery Center of Charleston  
Charleston, South Carolina  
Project Cost: \$4,600,071

Affecting Greenville County

Construction and renovation of the existing and new space for the expansion of the Surgery Department located on the 1<sup>st</sup> floor with the addition of two (2) operating rooms; new construction on the ground floor for future support services area, extension of existing ground floor corridor, partial electrical room extension and an extension to the existing utility tunnel  
Bon Secours St. Francis Health System-Downtown  
Greenville, South Carolina  
Project Cost: \$3,987,219

Affecting Horry County

Renovation for the addition of a Positron Emission Tomography/Computed Tomography (PET/CT) scanner  
Associated Medical Specialists, P.A.  
Myrtle Beach, South Carolina  
Project Cost: \$1,549,850

Affecting Lexington County

Renovation for the addition of two (2) operating rooms (ORs) for a total of four (4) ORs  
Moore Orthopaedic Clinic Outpatient Surgery Center, LLC  
Lexington, South Carolina  
Project Cost: \$384,641

Affecting Richland County

Establishment of an inpatient hospice facility with twelve (12) beds  
Carolinas Community Hospice, Inc., d/b/a/ Agape Hospice House of the Midlands  
Columbia, South Carolina  
Project Cost: \$2,000,000

Replacement of a single-slice Computed Tomography (CT) scanner with a twenty (20) slice CT scanner  
Image Care, LLC  
Columbia, South Carolina  
Project Cost: \$756,685

## 12 NOTICES

Renovation of existing space for the replacement of an open 0.2T Magnetic Resonance Imaging (MRI) unit with a fixed 1.5T MRI  
Palmetto Imaging, Inc.  
Columbia, South Carolina  
Project Cost: \$2,322,335

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

(Bureau of Air Quality Notice #11-011-Registration Permit)

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

The South Carolina Department of Health and Environmental Control (DHEC or Department) proposes to develop registration permits for Cotton Ginning Operations. Interested persons are invited to present their views in writing by 5:00 pm on March 28, 2011, to Karen Lee at SC DHEC, Engineering Services Division, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201 or by e-mail at: [leeka@dhec.sc.gov](mailto:leeka@dhec.sc.gov). This public notice is being published in the *State Register* on February 25, 2011, and may also be viewed through March 28, 2011, on DHEC's website: <http://www.scdhec.gov/environment/baq/publicnotice.asp>.

Where there is a significant amount of public interest, DHEC may hold a public hearing to receive additional comments. If a public hearing is scheduled, notice will be given in the *State Register* and local newspapers thirty (30) days in advance. Public hearing requests can be made in writing or by e-mail to Karen Lee at the address or e-mail above. All comments received by March 28, 2011, will be considered when making a decision to approve, disapprove, or modify the draft permits.

If you have questions concerning the development of these permits, please contact Jerisha Dukes at (803) 898-4123. A final review request may be filed after the permit decision has been made. Information regarding final review procedures is available from DHEC's legal office by calling (803) 898-3350.

If these registration permits involve land disturbing activities in one of the eight coastal counties of the Coastal Zone under DHEC-OCRM's jurisdiction, then a coastal zone consistency certification may be required prior to land disturbing activities.

#### Synopsis:

The Department is considering the development and implementation of a registration permit for cotton ginning operations with uncontrolled potential to emit less than the threshold for major source groups, and where equipment similarities and simplicity remove the need for in-depth, site-specific review.

Registration permits, as provided under S.C. Regulation 61-62.1, Section II(I), are applicable to similar sources. Any registration permit developed by the Department will specify compliance with all requirements applicable to the construction and operation of that specific category of stationary sources and will identify criteria by which sources qualify for the registration permit. Because the registration permit contains the same emission limits and monitoring requirements as a construction and operating permit may contain, a source that qualifies may elect to apply to the Department for coverage under a registration permit in lieu of a construction and operating permit as provided in S.C. Regulation 61-62.1, Section II (A) and (F).

Cotton Ginning Operations: Cotton Ginning Operations, for purposes of this permit, are defined as any facility or plant that separates cotton lint from cotton seed. This process typically includes cleaning (removing plant material, dirt and other foreign matter) and packaging the lint into bales. These facilities shall not have emission units subject to any other applicable requirement other than what is specified therein.

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

(Bureau of Air Quality Notice #11-009-GCM-RE)

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

The South Carolina Department of Health and Environmental Control (DHEC) is proposing to renew the general air pollution operating permits for Textile Greige Operations and Fuel Combustion Operations. Interested persons may review the materials drafted and maintained by DHEC for these permits and submit written comments by 5:00 p.m. on March 28, 2011, to Karen Lee at SC DHEC, Engineering Services Division, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201 or by e-mail at: [leeka@dhec.sc.gov](mailto:leeka@dhec.sc.gov). This public notice is being published in the *State Register* on February 25, 2011, and may also be viewed, along with the draft permits and Statement of Basis, through March 28, 2011, on DHEC's website: <http://www.scdhec.gov/environment/baq/publicnotice.asp>.

Where there is a significant amount of public interest, DHEC may hold a public hearing to receive additional comments. If a public hearing is scheduled, notice will be given in the *State Register* and local newspapers thirty (30) days in advance. Public hearing requests can be made in writing or by e-mail to Karen Lee at the address or e-mail above. All comments received by March 28, 2011, will be considered when making a decision to approve, disapprove, or modify the draft permits.

If you have questions concerning the draft permits, please contact Alyson Hayes at (803) 898-4123. A final review request may be filed after the permit decision has been made. Information regarding final review procedures is available from DHEC's legal office by calling (803) 898-3350.

#### Synopsis:

The purpose of a general permit is to cover a large number of facilities that have similar operations. Such permits limit a facility's potential to emit below major source thresholds for the Title V permit program and contain conditions to assure that these facilities are operated as non-major sources.

DHEC has examined textile greige operations and fuel combustion operations and has concluded that the general permits, as proposed, are consistent with state and federal air pollution regulations.

Once a general permit is issued, any eligible facility may request coverage under that permit. DHEC will maintain a list of those facilities that receive authorization to operate under a general permit.

Textile Greige Operations: Textile Greige Operations, for purposes of this permit, is defined as one or any combination of the following: fuel combustion sources (boilers, emergency generators, and non-emergency generators), slashing operations, dryers, sizing storage vessels, fuel storage tanks, non-halogenated solvent parts washers, vacuum filtrations systems, and air washer systems.

## 14 NOTICES

Fuel Combustion Operations: Fuel Combustion Operations, for purpose of this permit, are defined as facilities which are comprised of one or more fuel combustion sources (including boilers, emergency generators, and non-emergency generators) fired on natural gas, propane, virgin fuel oil and/or DHEC approved waste streams, and fuel storage tanks.

### DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

#### NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal intends to adopt the latest edition of the following nationally recognized code.

1. National Fire Protection Association 58, Liquefied Petroleum Gas Code, 2011 Edition
2. The original promulgating authority for this code is:  
National Fire Protection Association  
1 Batterymarch Park  
Quincy, Massachusetts 02269
3. This code is referenced by:  
South Carolina Code of Laws, Section 40-82-70  
State Fire Marshal Regulations (SCRR) 71-8300.2 (L)

The Office of State Fire Marshal specifically requests comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to William Galloway at 141 Monticello Trail, Columbia, SC 29203, by fax at 803-896-9806, or by e-mail to [gallowayb@llr.sc.gov](mailto:gallowayb@llr.sc.gov).

If no comments are received within sixty (60) days of publication of this notice, the Office of State Fire Marshal will promulgate this latest edition without amendment.

### WORKERS' COMPENSATION COMMISSION

#### NOTICE

67-405C (1). Employers and Insurance Carriers, Proof of Compliance

Following the public hearing conducted pursuant to Section 1-23-111 on November 29, 2010 pertaining to Regulation Document 4152, relating to Employers and Insurance Carriers, Proof of Compliance, the South Carolina Workers' Compensation Commission elected to terminate the promulgation process on this regulation pursuant to Section 1-23-111(C)(c).

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH  
CHAPTER 71**

Statutory Authority: 1976 Code Sections 41-3-40 and 41-15-210

**Notice of Drafting:**

The South Carolina Department of Labor, Licensing and Regulation, Office of Occupational Safety and Health proposes to amend Regulations 71-400 through 71-409 to reflect current state and federal practice. Interested persons may submit comments to Gwendolyn Thomas, OSHA Technical Support Coordinator, S.C. Department of Labor, Licensing and Regulation, Office of Occupational Safety and Health, Post Office Box 11329, Columbia, S.C. 29211-1329.

**Synopsis:**

The Department of Labor, Licensing and Regulation proposes to amend current Regulations 71-400 through 71-409 to reflect current federal and state occupational safety laws. The proposed change will reflect the jurisdiction of the Administrative Law Court to review citations and notifications of failure to abate, with the associated abatement dates and proposed penalties.

## 16 PROPOSED REGULATIONS

Document No. 4183  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**  
CHAPTER 8  
Statutory Authority: 1976 Code Section 6-9-40

8-900. International Residential Code

### **Preamble:**

The South Carolina Building Codes Council will amend its regulations by adding Article 9, based upon the International Residential Code, 2009 Edition, in accordance with the statutory amendments to acts governing the Building Codes Council, including proposed modifications.

Copies of the referenced codes can be found at <http://publiccodes.citation.com/icod/IC-P-2009-000019.htm>

### Section-by-Section Discussion

The following is a section-by-section discussion of the amendments proposed by the Building Codes Council:

8-900. International Residential Code.

New article title.

8-901. IRC Table R302.1 Exterior Walls.

New section; provides modification of Table R302.1 in accordance with the 2009 International Residential Code.

8-902. IRC Figure R307.1 Minimum Fixture Clearances.

New section; provides modification of Figure R307.1 in accordance with the 2009 International Residential Code.

8-903. IRC Section R311.8.1 Maximum slope.

New section; provides modification of Section R311.8.1 in accordance with the 2009 International Residential Code.

8-904. IRC Section R315.2 Where required in existing dwellings.

New section; provides modification of Section R315.2 in accordance with the 2009 International Residential Code.

8-905. IRC Table R402.2 Minimum Specified Compressive Strength of Concrete.

New section; provides modification of Table R402.2 in accordance with the 2009 International Residential Code.

8-906. IRC Table R502.5(1) Girder Spans and Header Spans for Exterior Bearing Walls.

New section; provides modification of Table R502.5(1) in accordance with the 2009 International Residential Code.

8-907. IRC Section R612.2 Window sills.

New section; provides modification of Section R612.2 in accordance with the 2009 International Residential Code.

8-908. IRC Sections R903.5, R903.5.1, R903.5.2 and Figure R903.5 Hail Exposure Map.

New section; provides modification of Sections R903.5, R903.5.1, R903.5.2 and Figure R903.5 in accordance with the 2009 International Residential Code.

8-909. IRC Section R907.3.

New section; provides modification of Section R907.3 in accordance with the 2009 International Residential Code.

8-910. IRC Section M1411.5 Insulation of refrigerant piping.

New section; provides modification of Section M1411.5 in accordance with the 2009 International Residential Code.

8-911. IRC Section M1411.6 Locking access port caps.

New section; provides modification of Section M1411.6 in accordance with the 2009 International Residential Code.

8-912. IRC Section: M1502.4.4.1 Specified length.

New section; provides modification of Section M1502.4.4.1 in accordance with the 2009 International Residential Code.

8-913. IRC Section E3901.11 HVAC outlet.

New section; provides modification of Section E3901.11 in accordance with the 2009 International Residential Code.

8-914. IRC Section E3902.11 Arc-fault circuit-interrupter protection.

New section; provides modification of Section E3902.11 in accordance with the 2009 International Residential Code.

8-915. IRC Section E4002.14 Tamper-resistant receptacles.

New section; provides modification of Section E4002.14 in accordance with the 2009 International Residential Code.

A Notice of Drafting was published in the *State Register* on January 28, 2011.

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

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code of Laws of South Carolina, as amended, such hearing will be conducted before the Council at 10:00 a.m. on April 11, 2011. Written comments may be directed to Gary Wiggins, Administrator, Building Codes Council, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., March 28, 2011.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

The South Carolina Building Codes Council proposes to promulgate amended regulations which address applicable international residential codes.

## **18 PROPOSED REGULATIONS**

### **DESCRIPTION OF REGULATION:**

Purpose: To amend the code regulations.

Legal Authority: Statutory Authority: 1976 Code Section 6-9-40.

Plan for Implementation: Administratively, the Department will see that these provisions are implemented by informing the public through written and oral communications, and posting all changes on its website.

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

These regulations need to be amended in order to update codes.

### **DETERMINATION OF COSTS AND BENEFITS:**

There will be no additional cost incurred by the State or its political subdivisions.

### **UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no direct effect on the environment. The public health and the business environment of this State will be enhanced by conforming the regulations to the applicable codes.

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

There will be no direct detrimental effect on the environment and public health of this State if the regulations are not implemented in this State.

### **Statement of Rationale:**

The science and technology supporting the development of these regulations can be found in the corresponding construction codes located at the website referenced in the preamble.

### **Text:**

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

Document No. 4184  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BUILDING CODES COUNCIL**

CHAPTER 8

Statutory Authority: 1976 Code Section 6-9-40

- 8-300. The South Carolina Modular Buildings Construction Act
- 8-400. Building Accessibility
- 8-500. National Electrical Code
- 8-600. International Building Code
- 8-700. International Fire Code
- 8-800. International Fuel Gas Code

**Preamble:**

The South Carolina Building Codes Council will amend its regulations by adding Article 3, Modular Building Construction with no modifications; by adding Article 4, Building Accessibility with no modifications; by adding Article 5, based upon the National Electrical Code, 2008 Edition; by repealing and replacing Article 6, based upon the International Building Code, 2009 Edition; by repealing and replacing Article 7, based upon the International Fire Code, 2009 Edition; by adding Article 8, based upon the International Fuel Gas Code, 2009 Edition; in accordance with the statutory amendments to acts governing the Building Codes Council, including proposed modifications.

Copies of the referenced codes can be found at <http://publicecodes.citation.com/icod/IC-P-2009-000019.htm>

Section-by-Section Discussion

The following is a section-by-section discussion of the amendments proposed by the Building Codes Council:

8-300. The South Carolina Modular Buildings Construction Act.

New article title.

8-301. Purpose.

New section; describes purpose of article to implement South Carolina Modular Buildings Construction Act of 1984.

8-302. Definitions.

New section; provides definitions of terms used in this article.

8-303. Department Duties and Responsibilities.

New section; describes duties and responsibilities of the Department in keeping with this article.

8-304. Adoption of Model Codes.

New section; includes adoption of state building codes, energy code, and barrier free design standards.

8-305. Enforcement Authority.

New section; describes authority of the local building official.

8-306. Delegation of Inspection Authority: Approved Inspection Agency's Qualifications, Acceptance Requirements.

New section; provides requirements for inspection agencies.

## **20 PROPOSED REGULATIONS**

### **8-307. Approved Inspection Agency Authority.**

New section; provides requirements for inspection agency authority, including modular building systems requirements.

### **8-308. Quality Control Procedures.**

New section; provides procedures for quality control in manufacturing facilities.

### **8-309. Change in Status, Alterations.**

New section; describes changes to approved plans and alterations or conversions.

### **8-310. Alternate Methods and Materials.**

New section; provides that Department may approve equivalent alternate methods and materials.

### **8-311. Approved Inspection Agency: Inspection.**

New section; provides inspection requirements for inplant and individual unit inspections.

### **8-312. Reciprocity.**

New section; provides reciprocal inspection requirements.

### **8-313. Multiple Site Manufacturing.**

New section; provides requirements for multiple site manufacturing.

### **8-314. Council Certification Label.**

New section; addresses Council certification labels.

### **8-315. Certification Label Application and Issuance.**

New section; addresses certification label application and issuance.

### **8-316. Certification Label Denial.**

New section; addresses certification label denial for uncorrected violations of approved plans.

### **8-317. Removal of Certification Labels.**

New section; addresses certification label removal.

### **8-318. Schedule of Fees.**

New section; provides schedule of fees, which includes label fees.

### **8-319. Appeal Procedures.**

New section; addresses appeal procedures.

### **8-320. License Application Requirements.**

New section; provides application requirements for modular building manufacturer's license.

### **8-321. Sale of Modular Buildings.**

New section; provides requirements for sale of modular buildings.

### **8-322. License Issued.**

New section; provides licenses will be issued when information on application is in compliance with these regulations.

### **8-323. Security Requirement.**

New section; provides bond requirements, which are \$75,000.00 for manufacturers and \$10,000.00 for manufacturer's representatives.

8-324. Duties and Responsibilities of Council.

New section; describes duties and responsibilities of Council.

8-325. Denial, Revocation or Suspension of License.

New section; describes reasons for denial, revocation or suspension of licenses.

8-326. Erection.

New section; provides requirements for erection of modular buildings.

8-327. Exemption.

New section; provides exemption for factory built structures.

8-328. Recertifying.

New section; provides requirements for recertification.

8-400. Building Accessibility.

New article title.

8-401. Authority.

New section; provides building accessibility with limited exceptions.

8-402. Application.

New section; requires conformity with building code statutes before construction.

8-403. Administration.

New section; provides local building officials interpretation of these regulations.

8-500. National Electrical Code.

New article title.

8-501. NEC Article 90.2(B)(5)b Scope.

New section; provides modification of NEC Article 90.2(B)(5)b in accordance with the 2009 National Electrical Code.

8-502. NEC Article: 210.12(B) Arc-Fault Circuit-Interrupter Protection.

New section; provides modification of 210.12(B) in accordance with the 2009 National Electrical Code.

8-600 through 8-628. Modular Buildings Construction.

Repeal current regulations and replace as follows:

8-600. International Building Code.

New article title.

8-601. IBC Section 403.2.1 Reduction in fire-resistance rating.

New section; provides modification of 403.2.1 in accordance with the 2009 International Building Code.

8-602. IBC Section 706.3 Materials.

New section; provides modification of 706.3 in accordance with the 2009 International Building Code.

8-603. IBC Table 706.4 Fire Wall Resistance Ratings.

New section; provides modification of Table 706.4 in accordance with the 2009 International Building Code.

## **22 PROPOSED REGULATIONS**

8-604. IBC Section 903.2.7 Group M.

New section; provides modification of 903.2.7 in accordance with the 2009 International Building Code.

8-605. IBC Section 1014.2 Egress through intervening spaces.

New section; provides modification of 1014.2 in accordance with the 2009 International Building Code.

8-700 through 8-703. South Carolina Barrier Free Building Design.

Repeal current regulations and replace as follows:

8-700. International Fire Code.

New article title.

8-701. IFC Section 503.2.1 Dimensions.

New section; provides modification of 503.2.1 in accordance with the 2009 International Fire Code.

8-702. IFC Section 507.5.1 Where required.

New section; provides modification of 507.5.1 in accordance with the 2009 International Fire Code.

8-703. IFC Section 903.2.7 Group M.

New section; provides modification of 903.2.7 in accordance with the 2009 International Fire Code.

8-704. IFC 906.1(1) Where required.

New section; provides modification of 906.1(1) in accordance with the 2009 International Fire Code.

8-800. International Fuel Gas Code.

New article title.

8-801. IFGC Section G505.1.1 Commercial cooking appliances vented by exhaust hoods.

New section; provides modification of G505.1.1 in accordance with the 2009 International Fuel Gas Code.

A Notice of Drafting was published in the *State Register* on January 28, 2011.

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

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code of Laws of South Carolina, as amended, such hearing will be conducted before the Council at 10:00 a.m. on April 11, 2011. Written comments may be directed to Gary Wiggins, Administrator, Building Codes Council, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., March 28, 2011.

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

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

### **Statement of Need and Reasonableness:**

The South Carolina Building Codes Council proposes to promulgate amended regulations which address applicable international and national codes.

### **DESCRIPTION OF REGULATION:**

Purpose: To amend the code regulations.

Legal Authority: Statutory Authority: 1976 Code Section 6-9-40.

Plan for Implementation: Administratively, the Department will see that these provisions are implemented by informing the public through written and oral communications, and posting all changes on its website.

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

These regulations need to be amended in order to update codes and provide requirements for modular buildings and accessibility of buildings.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no additional cost incurred by the State or its political subdivisions.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning these regulations.

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

These regulations will have no direct effect on the environment. The public health and the business environment of this State will be enhanced by conforming the regulations to the applicable codes.

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

There will be no direct detrimental effect on the environment and public health of this State if the regulations are not implemented in this State.

**Statement of Rationale:**

The science and technology supporting the development of these regulations can be found in the corresponding construction codes located at the website referenced in the preamble.

**Text:**

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

## 24 PROPOSED REGULATIONS

Document No. 4182  
**COMMISSIONERS OF PILOTAGE**  
CHAPTER 136

Statutory Authority: 1976 Code Sections 40-1-70 and 54-15-140

136-018. Licensure for the Savannah River

### **Preamble:**

The Commissioners of Pilotage propose to add Regulation 136-018 for licensure of pilots at Savannah River.

### Section-by-Section Discussion

136-018. Licensure for the Savannah River.

New text.

- A. Provides training and qualification requirements for Savannah Bar and River.
- B. Adds supervision provision for pilots at the Savannah River.

A Notice of Drafting was published in the *State Register* on August 27, 2010.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Commissioners of Pilotage, 899 Morrison Drive, Charleston, S.C. 29403 on April 12, 2011 at 5:00 p.m. Written comments may be directed to Kate K. Cox, Administrator, Commissioners of Pilotage, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., March 29, 2011. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

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

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

### **Statement of Need and Reasonableness:**

#### DESCRIPTION OF REGULATION:

Purpose: To provide for Savannah River pilotage licensure.

Legal Authority: Sections 54-15-140 and 40-1-70.

Plan for Implementation: The amended regulation will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the amended regulation and post the amended regulation on the agency's web site.

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

The proposed regulation is necessary in order to ensure compliance with the statutes and regulations concerning pilotage.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no additional costs incurred by the State or any political subdivision.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning this regulation.

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

This regulation will have no effect on the environment of this State. The public health of the State will be enhanced by ensuring compliance with pilotage statutes and regulations.

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

There will be no detrimental effects on the environment and public health if the regulation is not implemented in this State.

**Statement of Rationale:**

Regulation 136-018 is added to provide for Savannah River pilotage licensure.

**Text:**

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

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Document No. 4160  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61

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

61-62. Air Pollution Control Regulations and Standards

61-62.5. Standard No. 7, Prevention of Significant Deterioration

61-62.5. Standard No. 7.1, Nonattainment New Source Review (NSR)

### **Synopsis:**

The Department has amended R. 61-62.5, Standard No. 7, Prevention of Significant Deterioration; R. 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR); and the SIP to incorporate the provisions of the federal rule entitled “Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard” (70 FR 71612) also known as the “Phase 2 Ozone Rule,” and the federal rule entitled “Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)” (73 FR 28321), also known as the “NSR PM<sub>2.5</sub> Implementation Rule NSR PM<sub>2.5</sub> Implementation Rule.” The Department also added a nonsubstantive clarification to correct a scrivener’s error.

These regulations were promulgated to comply with federal law. A fiscal impact statement, assessment report, or legislative review are not required.

A Notice of Drafting for these proposed regulations was published in the *State Register* on July 23, 2010.

### Discussion of Revisions:

#### SECTION CITATION/EXPLANATION OF CHANGE:

#### **Regulation, 61-62.5, Standard No. 7, Prevention of Significant Deterioration**

Regulation, 61-62.5, Standard No. 7, Prevention of Significant Deterioration, (b) Definitions, (44) “Regulated NSR Pollutant”:

The definition of “Regulated NSR Pollutant” was revised to include elaboration on which pollutants are precursors for criteria pollutants under the National Ambient Air Quality Standards, and specific instructions on how to calculate PM emissions when determining if emissions fall within the scope of this definition.

Regulation, 61-62.5, Standard No. 7, Prevention of Significant Deterioration, (b) Definitions, (49)(i) “Significant”:

The definition of “Significant” was revised to include new thresholds for PM<sub>2.5</sub>.

Regulation, 61-62.5, Standard No. 7, Prevention of Significant Deterioration, (i) Exemptions, (1)(xi):

This item was added to clarify what provisions apply to PSD applications received before July 15, 2008.

Regulation, 61-62.5, Standard No. 7, Prevention of Significant Deterioration, (i) Exemptions, (5)(i):

This item was modified by adding “or nitrogen oxides” to the footnote for Ozone in the list of de minimis air quality levels, so that a facility with a net increase of 100 tons per year or more of nitrogen oxides subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

**Regulation, 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR)**

Regulation, 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), (c) Definitions, (13) “Regulated NSR pollutant”:

The definition of “Regulated NSR pollutant” was modified in the introductory sentence by adding the words “of this regulation” for clarification to correct a nonsubstantive scrivener’s error. The definition is also modified by adding a list of precursors and the requirements for considering PM, including timing requirements for considering condensable emissions.

Regulation, 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), (c) Definitions, (14) “Significant”:

The definition of “Significant” was revised to include new thresholds for PM<sub>2.5</sub>.

**Instructions:**

Amend Regulation 61-62, Air Pollution Control Regulations and Standards, pursuant to each instruction provided below with the text of the amendments.

**Text:****Regulation, 61-62.5, Standard No. 7, Prevention of Significant Deterioration****(b) Definitions, (44) “Regulated NSR Pollutant” shall be revised as follows:**

(44) “**Regulated NSR pollutant,**” for purposes of this regulation, means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the Administrator. Precursors identified by the Administrator for purposes of NSR are the following:

(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(b) Sulfur dioxide is a precursor to PM<sub>2.5</sub> in all attainment and unclassifiable areas.

(c) Nitrogen oxides are presumed to be precursors to PM<sub>2.5</sub> in all attainment and unclassifiable areas, unless the State demonstrates to the Administrator’s satisfaction or the EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area’s ambient PM<sub>2.5</sub> concentrations.

(d) Volatile organic compounds are presumed not to be precursors to PM<sub>2.5</sub> in any attainment or unclassifiable area, unless the State demonstrates to the Administrator’s satisfaction or the EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area’s ambient PM<sub>2.5</sub> concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Clean Air Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Clean Air Act;

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(iv) Any pollutant that otherwise is subject to regulation under the Clean Air Act; except that any or all hazardous air pollutants either listed in section 112 of the Clean Air Act or added to the list pursuant to section 112(b)(2) of the Clean Air Act, which have not been delisted pursuant to section 112(b)(3) of the Clean Air Act, are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Clean Air Act;

(v) Reserved;

(vi) Particulate matter (PM) emissions, PM<sub>2.5</sub> emissions and PM<sub>10</sub> emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM<sub>2.5</sub> and PM<sub>10</sub> in PSD permits. Compliance with emissions limitations for PM, PM<sub>2.5</sub> and PM<sub>10</sub> issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

### **(b) Definitions, (49)(i) “Significant” shall be revised as follows:**

(49)(i) “Significant” means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

#### Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Sulfur dioxide: 40 tpy

Particulate matter:

25 tpy of particulate matter emissions;

15 tpy of PM<sub>10</sub> emissions;

10 tpy of direct PM<sub>2.5</sub>;

40 tpy of sulfur dioxide emissions;

40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM<sub>2.5</sub> precursor under (b)44 of this section

Ozone: 40 tpy of volatile organic compounds or oxides of nitrogen

Lead: 0.6 tpy

Fluorides: 3 tpy

Sulfuric acid mist: 7 tpy

Hydrogen sulfide (H<sub>2</sub>S): 10 tpy

Total reduced sulfur (including H<sub>2</sub>S): 10 tpy

Reduced sulfur compounds (including H<sub>2</sub>S): 10 tpy

Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans):  $3.2 \times 10^{-6}$  megagrams per year ( $3.5 \times 10^{-6}$  tons per year)

Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tons per year)

Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tons per year)

Municipal solid waste landfills emissions (measured as nonmethane organic compounds): 45 megagrams per year (50 tons per year)

**(i) Exemptions, (5)(i) shall be revised as follows:**

(i) The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

- Carbon monoxide-- $575 \mu\text{g}/\text{m}^3$ , 8-hour average;
- Nitrogen dioxide-- $14 \mu\text{g}/\text{m}^3$ , annual average;
- Particulate matter-- $10 \mu\text{g}/\text{m}^3$  of  $\text{PM}_{10}$ , 24-hour average;
- Sulfur dioxide-- $13 \mu\text{g}/\text{m}^3$ , 24-hour average;
- Ozone;<sup>1</sup>
- Lead-- $0.1 \mu\text{g}/\text{m}^3$ , 3-month average;
- Fluorides-- $0.25 \mu\text{g}/\text{m}^3$ , 24-hour average;
- Total reduced sulfur-- $10 \mu\text{g}/\text{m}^3$ , 1-hour average;
- Hydrogen sulfide-- $0.2 \mu\text{g}/\text{m}^3$ , 1-hour average;
- Reduced sulfur compounds-- $10 \mu\text{g}/\text{m}^3$ , 1-hour average; or

<sup>1</sup> No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to PSD would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

**(i) Exemptions, (5)(ii) shall be revised as follows:**

(ii) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in paragraph (i)(5)(i), or the pollutant is not listed in paragraph (i)(5)(i).

**Regulation, 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR)**

**(c) Definitions, (13) “Regulated NSR pollutant” shall be revised as follows:**

(13) “Regulated NSR pollutant,” for purposes of this regulation, means the following:

- (A) Oxides of nitrogen or any volatile organic compounds;
- (B) Any pollutant for which a national ambient air quality standard has been promulgated;
- (C) Any pollutant that is a constituent or precursor of a general pollutant listed under paragraphs (c)(13)(A) or (B), provided that a constituent or precursor pollutant may only be regulated under NSR as part of regulation of the general pollutant. Precursors identified by the Administrator for purposes of NSR are the following:

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(a) Volatile organic compounds and nitrogen oxides are precursors to ozone in all ozone nonattainment areas;

(b) Sulfur dioxide is a precursor to  $PM_{2.5}$  in all  $PM_{2.5}$  nonattainment areas;

(c) Nitrogen oxides are presumed to be precursors to  $PM_{2.5}$  in all  $PM_{2.5}$  nonattainment areas, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient  $PM_{2.5}$  concentrations;

(d) Volatile organic compounds and ammonia are presumed not to be precursors to  $PM_{2.5}$  in any  $PM_{2.5}$  nonattainment area, unless the State demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds or ammonia from sources in a specific area are a significant contributor to that area's ambient  $PM_{2.5}$  concentrations; or

(D)  $PM_{2.5}$  emissions and  $PM_{10}$  emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for  $PM_{2.5}$  and  $PM_{10}$  in permits issued under this ruling. Compliance with emissions limitations for  $PM_{2.5}$  and  $PM_{10}$  issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

**(c) Definitions, (14) "Significant" shall be revised as follows:**

(14) **"Significant"** means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, as rate of emissions that would equal or exceed any of the following rates:

#### Pollutant Emission Rate

Carbon monoxide: 100 tons per year (tpy)

Nitrogen oxides: 40 tpy

Particulate matter:

15 tpy of  $PM_{10}$  emissions;

10 tpy of direct  $PM_{2.5}$ ;

40 tpy of sulfur dioxide emissions;

40 tpy of nitrogen oxide emissions unless demonstrated not to be a  $PM_{2.5}$  precursor under paragraph 13 of this section

Sulfur dioxide: 40 tpy

Ozone: 40 tpy of volatile organic compounds or oxides of nitrogen

Lead: 0.6 tpy

**Statement of Need and Reasonableness:**

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

**DESCRIPTION OF REGULATION:** Amendments to R. 61-62.5, Standard No. 7, Prevention of Significant Deterioration, R. 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR).

**Purpose:** The Department has amended R. 61-62.5, Standard No. 7, Prevention of Significant Deterioration; R. 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR); and the SIP to incorporate the provisions of the Phase 2 Ozone Rule and the NSR PM<sub>2.5</sub> Implementation Rule, and to add a nonsubstantive clarification to correct a scrivener's error.

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

**Plan for Implementation:** The amendments took effect upon approval by the Board of Health and Environmental Control and publication in the State Register. The amendments will be implemented by providing the regulated community with copies of the regulation, sending an email to stakeholders, and publishing the Notice of Final Regulation and updated regulations on the Department's website.

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

The EPA regularly promulgates amendments to federal regulations to include clarification, guidance, technical amendments, and strengthen air quality provisions. States are mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure conformity of state regulations to federal requirements.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no increased cost to the state or its political subdivisions resulting from this revision. The standards to be adopted are already effective and applicable to the regulated community as a matter of federal law, thus regulated community has already incurred the cost of these regulations. The amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

**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:**

Adoption of the recent changes in federal regulations through the amendments to R. 61-62, Air Pollution Control Regulations and Standards, and the SIP will provide continued protection of the environment and public health.

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

The state's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.