CHAPTER 71

Department of Labor, Licensing and Regulation—Division of Labor

(Statutory Authority: 1976 Code § 41–15–210; § 23–9–60)

ARTICLE 1
OCCUPATIONAL SAFETY & HEALTH
SUBARTICLE 1
GENERAL

Editor's Note

Regulations in this subarticle became effective according to the following schedule:

Regulations 71-101 through 71-107 became effective as of the first day of January, 1972.

R. 71-108 became effective as of the first day of January, 1975.

R. 71-109 through R. 71-111 became effective as of the first day of January, 1972.

R. 71-112 through R. 71-115 became effective as of the first day of January, 1975.

71–100. Purpose.

Section 41-15-210, South Carolina Code of Laws, provides that "the Commissioner of Labor may promulgate, modify or revoke rules and regulations which will have full force and effect of law upon being properly certified and filed for the purpose of attaining the highest degree of health and safety protection for any and all employees working within the State of South Carolina, whether employed in the public or private sector."

71–101. Scope.

These rules and regulations shall be applicable to all public and private places of employment having one or more employees.

71–102. Definitions.

As used in this article, unless the context clearly requires otherwise:

A. "State" means the State of South Carolina.

B. "Department" means the Department of Labor, State of South Carolina.

C. "Commissioner" means the Commissioner, Department of Labor, State of South Carolina.

D. "Employer" means any individual, partnership, joint venture, cooperative association or corporation licensed to do business in the State, and the State of South Carolina and any political subdivision thereof.

E. "Employee" means any person employed by an individual, partnership, joint venture, cooperative association or corporation licensed to do business in the State, or the State of South Carolina and any political subdivision thereof.

F. "Safety Specialist" means any individual commissioned by the Department of Labor, the State of South Carolina or any political subdivision thereof to enforce safety and health laws, rules and regulations.

G. "Person" means any individual, partnership, joint venture, corporative association, corporation, organization of employees, the State of South Carolina or any political subdivision thereof.

H. "Party" means any individual, partnership, joint venture, cooperative association, corporation, the State of South Carolina or any political subdivision thereof who shall have a vested interest to participate in a hearing conducted in accordance with any subarticle of this article.

I. "Affected Employee" means any employee who would be affected by the grant or denial of any petition.

J. "Standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

K. [Reserved]

L. [Reserved]

M. [Reserved]

N. "Lost Workdays" is the number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

O. "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary service; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

P. "Director of Inspection" means that person in the Department of Labor, State of South Carolina, who is responsible for inspections made pursuant to the state's Occupational Safety and Health Laws, and, that person in other state agencies having the responsibility of directing the inspection force of that agency which has a contractual agreement with the Department of Labor, State of South Carolina, to enforce the state's Occupational Safety and Health Laws.

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

71–103. Notice.

Prior to the promulgation, modification or revocation of any rule or regulation the Commissioner shall conduct a hearing. Notice of such hearing shall be published in at least one newspaper with general circulation of the geographical areas in which the proposed rule or regulation will have substantial impact at least ten (10) days before such hearing. The notice shall contain the date, time, and place of the hearing and a brief description of the proposed rule or regulation. Any person may appear and be given an opportunity to oppose, recommend or endorse adoption of such promulgation, modification or revocation.

71–104. Hearings.

Section 41-15-220, South Carolina Code of Laws, provides that, "Prior to the promulgation, modification or revocation of any rule or regulation issued pursuant to this act the Commissioner shall conduct a public hearing at which all interested persons shall be provided an opportunity to appear and present their comments either orally, written or both."

71–105. Petition for the Issuance, Amendment, or Repeal of a Standard.

A. Petition. Any interested person may petition in writing to the Commissioner to promulgate, modify, or revoke a Standard. The petition should set forth the terms or the substance of the rules desired, the effects thereof if promulgated, and the reasons therefor.

B. Presentation of Comments. Within a reasonable time after the receipt of a submission pursuant to subparagraph A of this regulation, the Commissioner shall afford interested persons the opportunity to appear and present their comments either orally, written or both. Notice of the hearing shall be given as provided in R. 71-103.

71–106. Amendments to Article and Regulations.

The Commissioner may on his own motion modify or revoke any rules and regulations contained in these subarticles or regulations. In the event of conflict among any such rules and regulations, the Commissioner shall take the action necessary to eliminate the conflict, including the revocation or modification of a rule or regulation in this article, or regulation thereof, so as to assure the greatest protection for the safety and health of employees.

71–107. Applicability of Standards.

A. Applicability to Employer. The Standards contained in these subarticles shall apply with respect to all employers in this State employing one (1) or more employees.

B. Applicability to Conditions, Practices, Etc. If a particular Standard is specifically applicable to a condition, practice, means, method, operation, or process, it shall prevail over any different general standard which might otherwise be applicable to the same condition, practice, means, method, operation, or process.

C. Specific vs General Standards. Any standard shall apply according to its terms to any employment and place of employment in any industry, even though particular standards are also prescribed for that particular industry.

D. Classes of Persons Protected by Standards. In the event a standard protects a class of persons larger than employees, the standard shall be applicable under these subarticles only to employees and their employment and places of employment.

71–108. Incorporation by Reference.

A. The standards of agencies of the U.S. Government which are legally incorporated by reference in this article, have the same force and effect as other standards in this article.

B. Copies of the standards which are incorporated by reference may be examined at the South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina. Copies of such private standards may be obtained from the issuing organizations. Their names and addresses are listed in the pertinent subarticles of this article, and can also be obtained from the South Carolina Department of Labor.

C. Any changes in the standards incorporated by reference in this article and an official file of such changes are available for inspection at the South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina.

71–109. Amendments to These Subarticles.

Any person may at any time petition the Commissioner in writing to revise, amend, or revoke any provisions of these subarticles. The petition shall set forth either the terms or the substance of the rule desired, with a concise statement of the reason therefor and the effects thereof.

71–110. Representatives of Commissioner Not To Be Required to Sign Statements.

No employer or employee representative shall, as a condition precedent to the performing of an inspection at a place of employment, require any representative whose purpose it is to make an inspection under these rules and regulations to sign any statement, form or writing which is designed for the purpose of the representative waiving of any right or restricting, expanding or modifying any duty.

71–111. Confidentiality of Trade Secrets.

All information reported to or otherwise obtained by the Commissioner or his representatives in connection with any inspection or proceeding under these subarticles which contains or which might reveal a trade secret shall be considered confidential. In any proceedings the Commissioner or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

71–112. General Duty Clause.

A. Employers shall maintain a place of employment which is free of recognized hazards which may cause death or serious physical harm to his employees and he shall comply with this regulation and

other occupational safety and health rules and regulations promulgated under Chapter 15 of Title 41, Code of Laws, State of South Carolina, 1976, as amended.

B. Each employee shall comply with occupational safety and health rules and regulations promulgated under Chapter 15 of Title 41, Code of Laws, State of South Carolina, 1976, as amended; and, all employers' rules and regulations designed to protect him from recognized hazards for which there is no state occupational safety and health rule or regulation covering such situations.

71–113. Rules of Construction.

A. The prime contractor and any subcontractors may make their own arrangements with respect to obligations which might be more appropriately treated on a jobsite basis rather than individually. Thus, for example, the prime contractor and his subcontractors may wish to make an express agreement that the prime contractor or one of the subcontractors will provide all required first-aid or toilet facilities, thus relieving the subcontractors from actual, but not any legal responsibility (or, as the case may be, relieving the other subcontractors from actual, but not any legal responsibility). In no case shall the prime contractor be relieved of overall responsibility for compliance with the requirements of Subarticle 7 for all work to be performed under the contract.

B. By contracting for full performance of a contract, the prime contractor assumes all obligations prescribed as employer obligations under the standards contained in Subarticle 7, whether or not he subcontracts any part of the work.

C. To the extent that a subcontractor of any tier agrees to perform any part of the contract, he also assumes responsibility for complying with the standards in Subarticle 7 with respect to this subarticle. Thus, the prime contractor assumes entire responsibility under the contract and the subcontractor assumes responsibility with respect to his portion of the work. With respect to subcontracted work, the prime contractor and any subcontractor shall be deemed to have joint responsibility.

D. Where joint responsibility exists, both the prime contractor and his subcontractor or subcontractors, regardless of tier, shall be considered subject to the enforcement provisions of the Rules and Regulations, Commissioner of Labor, State of South Carolina.

SUBARTICLE 2
RULES OF PRACTICE FOR VARIANCES, LIMITATIONS, VARIATIONS, TOLERANCES, AND EXEMPTIONS UNDER THE SAFETY AND HEALTH LAWS OF THE STATE OF SOUTH CAROLINA

Editor's Note

R. 71-200 through 71-220 became effective on the First day of January, 1972.

R. 71-201G and R. 71-206D and Regulations 71-221, 71-222, 71-223, and 71-224 became effective on September 24, 1975.

71–200. Purpose.

This subarticle contains the rules of practice for administrative proceedings.

A. To grant variances and other relief under the Safety and Health Laws, rules and regulations of the State of South Carolina, and

B. To provide limitations, variations, tolerances, and exemptions thereof.

C. These rules shall be construed to secure a prompt and just conclusion of proceedings subject thereto.

71–201. Definitions.

As used in this subarticle, unless the context clearly requires otherwise:

A. "State" means the State of South Carolina.

B. "Department" means the Department of Labor, State of South Carolina.

C. "Commissioner" means the Commissioner, Department of Labor, State of South Carolina.

D. "Employer" means any individual, partnership, joint venture, cooperative association or corporation licensed to do business in the State, and the State of South Carolina and any political subdivision thereof.

E. "Employee" means any person employed by an individual, partnership, joint venture, cooperative association or corporation licensed to do business in the State, or the State of South Carolina and any political subdivision thereof.

F. "Safety Specialist" means any individual commissioned by the Department of Labor, the State of South Carolina or any political subdivision thereof to enforce safety and health laws, rules and regulations.

G. "Person" means any individual, partnership, joint venture, cooperative association, corporation, organization of employees, the State of South Carolina or any political subdivision thereof.

H. "Party" means any individual, partnership, joint venture, cooperative association, corporation, the State of South Carolina or any political subdivision thereof who shall have a vested interest to participate in a hearing conducted in accordance with this subarticle.

I. "Affected Employee" means any employee who would be affected by the grant or denial of any petition.

J. "Standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

K. [Reserved]

L. [Reserved]

M. [Reserved]

N. "Lost Workdays" is the number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so; that is, could not perform all or any part of the workday or shift, because of the occupational injury or illness.

O. "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary service; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

P. "Director of Inspection" means that person in the Department of Labor, State of South Carolina, who is responsible for inspections made pursuant to the State's Occupational Safety and Health Laws, and, that person in other State agencies having the responsibility of directing the inspection force of that agency which has a contractual agreement with the Department of Labor, State of South Carolina, to enforce the State's Occupational Safety and Health Laws.

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

71–202. Amendments to This Subarticle.

The Commissioner may at any time revise, amend, or revoke any provision of this subarticle, on his own motion or upon the written petition of any person.

71–203. Effect of Variances.

All variances granted pursuant to this Article shall have only future effect. In his discretion, the Commissioner may decline to entertain a petition for a variance on a subject or issue concerning which a citation has been issued to the employer involved and a proceeding on the citation or a related issue concerning a proposed penalty or period of abatement is pending before the Commissioner until the completion of such proceeding.

71–204. Public Notice of a Granted Variance, Limitation, Variation, Tolerance, or Exemption.

Every final action granting a variance, limitation, variation, tolerance, or exemption will be kept on file in the Office of the Commissioner, Department of Labor, Columbia, South Carolina.

71–205. Form of Petitions, Verification; Copies.

A. Forms of Petitions and Copies. No particular form is prescribed for petitions and other papers which may be filed in proceedings under this subarticle. However, any petition and others shall be filed with the Commissioner. The original shall be type-written. Clear carbon copies, or printed or processed copies are acceptable. (See R. 71-206 and R. 71-207 B for contents.)

B. Verification. Every petition or other paper which is filed in proceedings under these subarticles shall be verified by the person filing same, his attorney or authorized representative.

71–206. Temporary Variances.

A. Petition for Temporary Variance. Any employer, or class of employers, desiring a variance from a standard, or portion thereof may file a written petition containing the information specified in paragraph B of this regulation with the Commissioner, Columbia, South Carolina.

B. Contents for Temporary Variance. A petition filed pursuant to paragraph A of this regulation shall include:

(1) The name and address of the petitioner;

(2) the address of the place or places of employment involved;

(3) a specification of the standard or portion thereof from which the petitioner seeks a variance;

(4) a representation by the petitioner, supported by representations from qualified persons having first-hand knowledge of the facts represented, that he is unable to comply with the standards or portion thereof by its effective date and detailed statement of the reasons thereof;

(5) a statement of the steps the petitioner has taken or will take with specific dates where appropriate, to protect employees against the hazard covered by the standard;

(6) a statement of when the petitioner expects to be able to comply with the standards and of what steps he has taken and will take, with specific dates where appropriate, to come into compliance with the standard;

(7) a statement of the facts the petitioner proposes to prove:

(a) The petitioner is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alternation of facilities cannot be completed by the effective date;

(b) He is taking all available steps to safeguard his employees against the hazards covered by the standard;

(c) He has an effective program for coming into compliance with the standard as quickly as practicable;

(8) Any request for a hearing, as provided in this subarticle;

(9) A statement that the petitioner has informed his affected employees of the application by giving a copy thereof to their authorized representative, posting a statement, giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means;

(10) A description of how affected employees have been informed of the petition and of their rights to petition the Commissioner for a hearing.

C. Interim Order for Temporary Variances.

(1) Petition. A petition may also be made for an interim order to be effective until a decision is rendered on the petition for the variance filed previously or concurrently. A petition for an interim order may include statements of fact and arguments as to why the order should be granted. The Commissioner may rule ex parte upon the petition for interim order.

(2) Notice of Denial of Petition. If a petition filed pursuant to subparagraph (1) of this regulation is denied, the applicant shall be given prompt notice of the denial, which shall include, or be accompanied by; a brief statement of the grounds therefor.

(3) Notice of the Grant of an Interim Order. If an interim order is granted, a copy of the order shall be served upon the petitioner for the order and other parties and the terms of the order shall

be on file in the office of the Commissioner. It shall be a condition of the order that the affected employer shall give notice thereof to affected employees by the same means to be used to inform them of a petition for a variance.

D. Length of Temporary Variances. No temporary variance may be in effect for longer than the period needed by the employer to achieve compliance with the Rule or Regulation or for one year, which ever is shorter, except that such order may be renewed not more than twice (1) so long as the requirements of this paragraph are met and (2) if an application for renewal is filed at least ninety days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than 180 days.

71–207. Permanent Variances and other relief under section 41–15–250.

A. Petition for Permanent Variance. Any employer, or class of employers, desiring a variance authorized by Section 41-15-250, South Carolina Code of Laws, may file a written petition containing the information specified in paragraph B of this regulation with the Commissioner of Labor, Department of Labor, Columbia, South Carolina.

B. Contents for Permanent Variances. A petition filed pursuant to paragraph A of this regulation shall include:

(1) The name and address of the petitioner;

(2) The address of the place or places of employment involved;

(3) A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the petitioner;

(4) A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment to employees which are as safe and healthful as those required by the standard for which a variance is sought;

(5) A statement that the petitioner has informed his affected employees of the application by giving a copy thereof to their authorized representative, posting a statement, giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means;

(6) Any request for a hearing, as provided in this subarticle; and

(7) A description of how employees have been informed of the petition and of their right to petition the Commissioner of Labor for a hearing.

C. Interim Order for Permanent Variances.

(1) Petition. A petition may also be made for an interim order to be effective until a decision is rendered on the petition for the variance filed previously or concurrently. A petition for an interim order may include statements of fact and arguments as to why the order should be granted. The Commissioner may rule ex parte upon the petition.

(2) Notice of Denial of Petition. If a petition filed pursuant to subparagraph 1 of this paragraph is denied, the petitioner shall be given prompt notice of the denial, which shall include, or be accompanied by; a brief statement of the grounds therefor.

(3) Notice of the Grant of an Interim Order. If an interim order is granted, a copy of the order shall be served upon the petitioner for the order and other parties, and the terms of the order shall be on file at the Office of the Commissioner and subject to inspection by interested parties. It shall give notice thereof to affected employees by the same means to be used to inform them of a petition for a variance.

71–208. Limitations, Variations, Tolerances, or Exemptions.

A. Petition. Any person or class of persons desiring a limitation, variation, tolerance, or exemption may file a petition containing the information specified in paragraph B of this regulation with the Commissioner, Department of Labor, Columbia, South Carolina.

B. Contents. A petition filed pursuant to paragraph A of this regulation shall include:

(1) the name and address of the petitioner;

(2) the address of the place or places of employment involved;

(3) a specification of the provision of Rules and Regulations to or from which the petitioner seeks a limitation, variation, tolerance, or exemption;

(4) a representation showing that the limitation, variation, tolerance, or exemption sought is necessary and proper to avoid serious impairment of the national defense or State security;

(5) any request for a hearing, as provided in this subarticle;

(6) a description of how employees have been informed of the petition and of their right to petition the Commissioner for a hearing.

C. Interim Order.

(1) Petition. A petition may also be made for an interim order to be effective until a decision is rendered on the petition for a limitation, variation, tolerance, or exemption filed previously or concurrently. A petition for an interim order may include statements of fact and arguments as to why the order should be granted. The Commissioner may rule ex parte upon this petition.

(2) Notice of Denial of Petition. If a petition filed pursuant to subparagraph (1) of this paragraph is denied, the petitioner shall be given prompt notice of the denial, which shall include, or be accompanied by, a brief statement of the grounds therefor.

(3) Notice of the Grant of an Interim Order. If an interim order is granted, a copy of the order shall be served upon the petitioner for the order and other parties, and the terms of the order shall be on file in the office of the Commissioner. It shall be a condition of the order that the affected employer shall give notice thereof to affected employees by the same means to be used to inform them of a petition for a variance.

71–209. Modification, Revocation, and Renewal of Rules or Order.

A. Modification or Revocation. An affected employer or an affected employee may apply in writing to the Commissioner for a modification or revocation of a rule or order issued under this subarticle. The petition shall contain:

(1) the name and address of the petitioner;

(2) a description of the relief which is sought;

(3) a statement setting forth with particularity the grounds for relief;

(4) if the petitioner is an employer, a certification that the petitioner has informed his affected employees of the petition by:

(a) giving a copy thereof to their authorized representative; and

(b) posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full petition may be examined (or, in lieu of the summary, posting a copy of the petition);

(5) if the petitioner is an affected employee, a certification that a copy of the petition has been furnished to the employer;

(6) any request for a hearing as provided in this subarticle, R. 71-218;

(7) the Commissioner may on his own motion proceed to modify or revoke a rule or order issued under this subarticle. In such event a copy shall be placed on file in the office of the Commissioner, Columbia, South Carolina, and the Commissioner shall publish in at least one newspaper with general circulation, a notice of his intentions, affording interested persons an opportunity to submit written or oral evidence, testimony or arguments regarding the proposal and informing them of their right to request a hearing, and shall take such action as may be appropriate to give actual notice to affected employees; and

(8) any request for a hearing shall include a clear and concise statement of:

(a) how the proposed modification or revocation would affect the petitioning party; and

(b) what the petitioning party would seek to show on the subjects or issues involved.

B. Renewal. Any final rule or order issued under paragraph A of this regulation may be renewed or extended in the manner prescribed for its issuance.

71–210. Action on Petitions.

A. Defective Petitions.

(1) If a petition filed pursuant to this subarticle does not conform to the applicable regulation, the Commissioner may deny the petition.

(2) Prompt notice of the denial of a petition shall be given to the petitioner.

(3) A notice of denial shall include, or be accompanied by, a brief statement of the grounds for the denial.

(4) A denial of a petition due to a defect shall not preclude the filing of another petition.

B. Adequate Petitions.

(1) If a petition has not been denied pursuant to paragraph A of this regulation, the Commissioner shall give proper notice of the filing of the petition.

(2) A notice of the filing of a petition shall include:

(a) the terms, or accurate summary, of the petition;

(b) a reference to the subarticle and regulation of the Rules and Regulations under which the petition has been filed;

(c) an invitation to interested persons to submit within a stated period of time written evidence, testimony or arguments regarding the petition; and

(d) information to affected employers or employees of any right to request a hearing on the petition.

71–211. Request for Hearing on Petition.

A. Request for Hearing. Within fifteen (15) days of the notification of the filing of a petition, any affected employer or employee may file with the Commissioner a written request for a hearing.

B. Contents of a Request for a Hearing. A request for a hearing filed pursuant to paragraph A of this regulation shall include:

(1) a concise statement of facts showing how the employer or employee would be affected by the relief applied for;

(2) a specification of any statement or representation in the petition which is denied, and a concise summary of the evidence that would be adduced in support of each denial; and

(3) any views or arguments on any issue of fact or law presented.

C. Nothing contained herein shall preclude the request for a hearing being incorporated into and being made a part of the petition.

71–212. Consolidation of Proceedings.

The Commissioner on his own motion or that of any party may consolidate two or more proceedings which involve the same or closely related issues.

71–213. Notice of Hearing.

A. Service. Upon request for a hearing as provided in this subarticle, or upon his own initiative, the Commissioner shall serve, or caused to be served, a reasonable notice of hearing.

B. Contents of Notice. A notice of hearing served under paragraph A of this section shall include:

(1) The date, time and place of the hearing.

(2) The legal authority under which the hearing is to be held.

(3) A specification of issues of fact and law.

71–214. Manner of Service.

Service of any document upon any party may be made by personal delivery of, or by certified mail, a copy of the document to the last known address of the party. The person serving the document shall certify to the manner and the date of the service.

71–215. Prehearing Conference.

A. Convening a Conference. Upon his own motion or the motion of a party, the Commissioner may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of issues;

(2) Necessity or desirability of amendments to documents for purposes of clarification, or limitation;

(3) Stipulations, admissions of fact, and of contents and authenticity of documents;

(4) Limitation of the number of parties and of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding, and to assure a just conclusion thereof.

B. Records of Conference. The Commissioner shall make an order which recites the action taken at the conference, the amendments allowed to any documents which have been filed, and the agreements made between the parties as to any of the matters considered, and which limits the issues for hearing to those disposed of by admissions or agreements; and such order when entered controls the subsequent course of the hearing, unless modified at the hearing, to prevent manifest injustice.

71–216. Consent Findings and Rules or Orders.

A. General. At any time before the reception of evidence in any hearing, or during any hearing a reasonable opportunity may be afforded to permit negotiation by the parties of any agreement containing consent findings and a rule or order disposing of the whole or any part of the proceeding. The allowance of such opportunity and the duration thereof shall be in the discretion of the Commissioner, after consideration of the nature of the proceeding, the requirements of the public interest, the representations of the parties, and the probability of an agreement which will result in a just disposition of the issues involved.

B. Contents. Any agreement containing consent findings and a rule or order disposing of a proceeding shall also provide:

(1) The rule or order shall have the same force and effect as if made after a full hearing;

(2) That the entire record on which any rule or order may be based shall consist solely of the petition and the agreement;

(3) A waiver of any further procedural steps before the Commissioner, and

(4) A waiver of any right to challenge or contest the validity of the findings and or the rules or order made in accordance with the agreement.

C. Submission. On or before the expiration of the time granted for negotiations, the parties or their counsel may:

(1) Submit the proposed agreement to the Commissioner for his consideration; or

(2) Inform the Commissioner that agreement cannot be reached.

D. Disposition. In the event an agreement containing consent findings and a rule or order is submitted within the time allowed therefor, the Commissioner may accept such agreement by issuing his decision based upon the agreed findings.

71–217. Discovery.

A. Depositions.

(1) For reasons of unavailability or for other good cause shown, the testimony of any witness may be taken by deposition. Depositions may be taken orally or upon written interrogatories before any person designated by the Commissioner and having power to administer oaths.

(2) Application. Any party desiring to take the deposition of a witness may make application in writing to the Commissioner setting forth:

(a) the reasons why such deposition should be taken;

(b) the time when, the place where, and the name and post office address of the person before whom the deposition is taken;

(c) the name and address of each witness; and

(d) the subject matter concerning which each witness is expected to testify.

(3) Notice. Such notice as the Commissioner may order shall be given by the party taking the deposition to every other party.

(4) Taking and Receiving in Evidence. Each witness testifying upon deposition shall be sworn, and the parties not calling him shall have the right to cross-examine him. The questions propounded and the answers thereto, together with all objections made, shall be reduced to writing, read to the witness, subscribed by him, and certified by the officer before whom the deposition is taken. Thereafter, the officer shall seal the deposition, with two copies thereof, in an envelope and mail same by registered mail to the Commissioner. Subject to such objections to the questions and answers as were noted at the time of taking the deposition and would be valid were the witness personally present and testifying, such deposition may be read and offered in evidence by the party taking it as against any party who was present, represented at the taking of the deposition, or who had due notice thereof. No part of a deposition shall be admitted in evidence unless there is a showing that the reasons for the taking of the deposition in the first instance existed at the time of hearing.

B. Other Discovery.

Whenever appropriate to a just disposition of any issue in a hearing, the Commissioner may allow discovery by any other appropriate procedure, such as by written interrogatories upon a party, production of documents by a party, or by entry for inspection of the employment or place of employment involved.

71–218. Hearings.

A. Order of Proceeding. Except as may be ordered otherwise by the Commissioner, the party petitioning for relief shall proceed first at a hearing.

B. Burden of Proof. The petitioner shall have the burden of proof.

C. Evidence.

(1) Admissibility–A party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the Commissioner shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(2) Testimony of Witnesses–The testimony of a witness shall be upon oath or affirmation administered by the Commissioner.

(3) Objections–If a party objects to the admission or rejection of any evidence, or to the limitation of the scope of any examination or cross-examination, or to the failure to limit such scope, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made before the Commissioner may be relied upon subsequently in a proceeding.

(4) Exceptions–Formal exception to an adverse ruling is not required.

D. Judicial Notice. Judicial notice may be taken of any material fact not appearing in evidence in the record. Provided, that the parties shall be given adequate notice, at the hearing or by reference in the Commissioner's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

E. Transcript. Hearings shall be stenographically reported. Copies of the transcript may be obtained by the parties upon written application filed with the reporter, and upon the payment of fees at the rate provided in the agreement with the reporter.

71–219. Decisions of the Commissioner.

A. Within a reasonable time, the Commissioner shall make and serve upon each party his decision, which shall become final upon the 20th day after service thereof, unless exceptions are filed thereto, as provided in R. 71-220. The decision of the Commissioner shall include:

(1) A statement of findings and conclusions, with reasons and bases therefor, upon each material issue of fact, law or discretion presented on the record, and

(2) The appropriate rule, order, relief, or denial thereof.

The decision of the Commissioner shall be based upon a consideration of the whole record and shall state all facts officially noticed and relied upon. It shall be made on the basis of a preponderance of reliable and probative evidence.

71–220. Exceptions.

Within twenty (20) days after service of a decision of the Commissioner, any party may file with the Commissioner written exceptions thereto with supporting reasons. Such exceptions shall refer to the specific findings of fact, conclusions of law, or terms of the rule or order excepted to, the specific pages of transcript relevant to the suggestions, and shall suggest corrected findings of fact, conclusions of law, or terms of the rule or order. Upon receipt of any exceptions, the Commissioner shall fix a time for filing any objections to the exceptions and any supporting reasons. Nothing contained in this regulation shall preclude any grieved party from seeking relief in any court of competent jurisdiction.

71–221. Public Notice of Petition for a Variance and Interim Order.

The Commissioner of Labor will give notice in at least one newspaper with general circulation in the State containing the following information:

A. Variance Request.

(1) Name of the Company petitioning for the variance.

(2) The specific location of the facility directly affected by the Petition.

(3) The specific standard from which a variance is requested.

(4) That a copy of the petition will be made available for inspection and copying upon request at the Office of the Commissioner of Labor, Columbia, South Carolina.

(5) That interested persons, including employers and employees are invited to submit data, views, or arguments within 20 days following the date of the publication of notice.

(6) That employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the petition for a variance within 20 days after the publication of the notice.

(7) A general description of the reason or reasons for the variance request.

B. Interim Order.

A brief description of the interim order issued by the Commissioner of Labor.

C. Decisions of the Commissioner.

A statement will be included in the notice that the decision of the Commissioner will be available in the Office of the Commissioner for public inspection to any interested person.

71–222. Variances from Recordkeeping Requirements.

The Commissioner of Labor will not entertain an application for a variance from a Recordkeeping Requirement. Any request so received by the Commissioner will be transmitted to the Secretary of Labor for his action. The State of South Carolina will honor any variance granted by the Secretary of Labor.

71–223. Variances Granted by the Secretary of Labor.

The Commissioner of Labor will honor and give full faith and credit to any temporary or permanent variance from an occupational safety and health standard which has or may be granted by the Secretary of Labor. In order that such variance be honored by the Commissioner, it is and will be incumbent upon the employer to file the final rule or order of the Secretary of Labor with the Commissioner of Labor at his office in Columbia, South Carolina.

SUBARTICLE 3
RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

(Statutory Authority: 1976 Code § 41–15–210)

Editor's Note

This subarticle became effective on March 9, 1978. Amendments to regulations 71-302, 71-305, 71-313, 71-314, 71-315, and 71-316 became effective on May 11, 1978. Amendments to R. 71-307 became effective on October 17, 1978. Amendments to R. 71-301 which revised paragraph N (3) and new paragraph N (4) became effective on April 14, 1981. Addition of new contents, and amendments to regulations 71-301, 71-316, and 71-317 became effective on March 7, 1983. Amendments to R. 71-313 and R. 71-316 became effective on October 10, 1984.

Subpart A
Purpose

71–300. Purpose.

The purpose of this rule (Subarticle 3) is to require employers to record and report work-related fatalities, injuries and illnesses.

Note to 71–300: Recording or reporting a work-related injury, illness, or fatality does not mean that the employer or employee was at fault, that an OSHA rule has been violated, or that the employee is eligible for workers compensation or other benefits.

(Cross Reference: 1904.0)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

Subpart B
Scope

NOTE

Note to Subpart B: All employers covered by the Occupational Safety and Health Act (OSH Act) are covered by these Subarticle 3 regulations. However, most employers do not have to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs them in writing that they must keep records. For example, employers with 10 or fewer employees and business establishments in certain industry classifications are partially exempt from keeping OSHA injury and illness records.

71–301. Partial exemption for employers with 10 or fewer employees.

(a) Basic requirement

(1) If your company had ten (10) or fewer employees at all times during the last calendar year, you do not need to keep OSHA injury and illness records unless OSHA or the BLS informs you in writing that you must keep records under 71–342. However, as required by 71–339, all employers covered by the OSH Act must report to OSHA any workplace incident that results in a fatality or the hospitalization of one or more employees.

(2) If your company had more than ten (10) employees at any time during the last calendar year, you must keep OSHA injury and illness records unless your establishment is classified as a partially exempt industry under 71–302.

(b) Implementation.

(1) Is the partial exemption for size based on the size of my entire company or on the size of an individual business establishment? The partial exemption for size is based on the number of employees in the entire company.

(2) How do I determine the size of my company to find out if I qualify for the partial exemption for size? To determine if you are exempt because of size, you need to determine your company's peak employment during the last calendar year. If you had no more than ten (10) employees at any time in the last calendar year, your company qualifies for the partial exemption for size.

(3) Does the partial exemption for size apply to public sector [State of South Carolina and any political subdivision thereof]? No, the above exemption of not more than ten (10) employees does not apply to employers in the public sector.

(Cross Reference: 1904.1)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–302. Partial exemptions for establishments in certain industries.

(a) Basic requirement.

(1) If your business establishment is classified in a specific industry group listed in appendix A to this Subpart B, you do not need to keep OSHA injury and illness records unless the government asks you to keep the records under Sections 71–341 or 71–342. However, all employers must report to OSHA any workplace incident that results in an employee's fatality, in-patient hospitalization, amputation, or loss of an eye (see Sec.71–339).

(2) If one or more of your company's establishments are classified in a non-exempt industry, you must keep OSHA injury and illness records for all of such establishments unless your company is partially exempted because of size under 71–301.

(b) Implementation:

(1) Is the partial industry classification exemption based on the industry classification of my entire company or on the classification of individual business establishments operated by my company? The partial industry classification exemption applies to individual business establishments. If a company has several business establishments engaged in different classes of business activities, some of the company's establishments may be required to keep records, while others may be exempt.

(2) How do I determine the correct NAICS code for my company or for individual establishments? You can determine your NAICS code by using one of three methods, or you may contact your nearest OSHA office or State agency for help in determining your NAICS code:

(i) You can use the search feature at the U.S. Census Bureau NAICS main Web page: http://www.census.gov/eos/www/naics/. In the search box for the most recent NAICS, enter a keyword that describes your kind of business. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices.

(ii) Rather than searching through a list of primary business activities, you may also view the most recent complete NAICS structure with codes and titles by clicking on the link for the most recent NAICS on the U.S. Census Bureau NAICS main Web page: http://www.census.gov/eos/www/naics/. Then click on the two-digit Sector code to see all the NAICS codes under that Sector. Then choose the six-digit code of your interest to see the corresponding definition, as well as cross-references and index items, when available.

(iii) If you know your old SIC code, you can also find the appropriate 2002 NAICS code by using the detailed conversion (concordance) between the 1987 SIC and 2002 NAICS available in Excel format for download at the "Concordances" link at the U.S. Census Bureau NAICS main Web page: http://www.census.gov/eos/www/naics/.

(3) Does the partial industry classification exemption apply to public sector [State of South Carolina and any political subdivision thereof]? No, the above exemption applies only to establishments in the private sector. The exemption does not apply to the State of South Carolina or any political subdivisions thereof.

(Cross Reference: 1904.2)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; State Register Volume 39, Issue No. 6, Doc. No. 4558, eff June 26, 2015; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–303. Keeping records for more than one agency.

If you create records to comply with another government agency's injury and illness recordkeeping requirements, OSHA will consider those records as meeting OSHA's Subarticle 3 recordkeeping requirements if OSHA accepts the other agency's records under a memorandum of understanding with that agency, or if the other agency's records contain the same information as this Subarticle 3 requires you to record. You may contact your nearest OSHA office or State agency for help in determining whether your records meet OSHA's requirements.

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

NON–MANDATORY APPENDIX A
TO SUBPART B—PARTIALLY EXEMPT INDUSTRIES

Employers are not required to keep OSHA injury and illness records for any establishment classified in the following North American Industry Classification Systems (NAICS) codes, unless they are asked in writing to do so by OSHA, the Bureau of Labor Statistics (BLS), or a state agency operating under the authority of OSHA or the BLS. All employers, including those partially exempted by reason of company size or industry classification, must report to OSHA any employee's fatality, in-patient hospitalization, amputation, or loss of an eye (see Sec. 71–339). (Cross Reference 1904.3)

NAICS Code	Industry
4412	Other Motor Vehicle Dealers.
4431	Electronics and Appliance Stores.
4461	Health and Personal Care Stores.
4471	Gasoline Stations.
4481	Clothing Stores.
4482	Shoe Stores.
4483	Jewelry, Luggage, and Leather Goods Stores.
4511	Sporting Goods, Hobby, and Musical Instrument Stores.
4512	Book, Periodical, and Music Stores.
4531	Florists.
4532	Office Supplies, Stationery, and Gift Stores.
4812	Nonscheduled Air Transportation.
4861	Pipeline Transportation of Crude Oil.
4862	Pipeline Transportation of Natural Gas.
4869	Other Pipeline Transportation.
4879	Scenic and Sightseeing Transportation, Other.
4885	Freight Transportation Arrangement.
5111	Newspaper, Periodical, Book, and Directory Publishers.
5112	Software Publishers.
5121	Motion Picture and Video Industries.
5122	Sound Recording Industries.
5151	Radio and Television Broadcasting.
5172	Wireless Telecommunications Carriers (except Satellite).
5173	Telecommunications Resellers.
5179	Other Telecommunications.
5181	Internet Service Providers and Web Search Portals.
5182	Data Processing, Hosting, and Related Services.
5191	Other Information Services.
5211	Monetary Authorities-Central Bank.
5221	Depository Credit Intermediation.
5222	Nondepository Credit Intermediation.
5223	Activities Related to Credit Intermediation.
5231	Securities and Commodity Contracts Intermediation and Brokerage.
5232	Securities and Commodity Exchanges.
5239	Other Financial Investment Activities.
5241	Insurance Carriers.
5242	Agencies, Brokerages, and Other Insurance Related Activities.
5251	Insurance and Employee Benefit Funds.

NAICS Code	Industry
5259	Other Investment Pools and Funds.
5312	Offices of Real Estate Agents and Brokers.
5331	Lessors of Nonfinancial Intangible Assets (except Copyrighted Works).
5411	Legal Services.
5412	Accounting, Tax Preparation, Bookkeeping, and Payroll Services.
5413	Architectural, Engineering, and Related Services.
5414	Specialized Design Services.
5415	Computer Systems Design and Related Services.
5416	Management, Scientific, and Technical Consulting Services.
5417	Scientific Research and Development Services.
5418	Advertising and Related Services.
5511	Management of Companies and Enterprises.
5611	Office Administrative Services.
5614	Business Support Services.
5615	Travel Arrangement and Reservation Services.
5616	Investigation and Security Services.
6111	Elementary and Secondary Schools.
6112	Junior Colleges.
6113	Colleges, Universities, and Professional Schools.
6114	Business Schools and Computer and Management Training.
6115	Technical and Trade Schools.
6116	Other Schools and Instruction.
6117	Educational Support Services.
6211	Offices of Physicians.
6212	Offices of Dentists.
6213	Offices of Other Health Practitioners.
6214	Outpatient Care Centers.
6215	Medical and Diagnostic Laboratories.
6244	Child Day Care Services.
7114	Agents and Managers for Artists, Athletes, Entertainers, and Other Public Figures.
7115	Independent Artists, Writers, and Performers.
7213	Rooming and Boarding Houses.
7221	Full-Service Restaurants.
7222	Limited-Service Eating Places.
7224	Drinking Places (Alcoholic Beverages).
8112	Electronic and Precision Equipment Repair and Maintenance.
8114	Personal and Household Goods Repair and Maintenance.
8121	Personal Care Services.
8122	Death Care Services.
8131	Religious Organizations.
8132	Grantmaking and Giving Services.
8133	Social Advocacy Organizations.
8134	Civic and Social Organizations.
8139	Business, Professional, Labor, Political, and Similar Organizations.

(Cross Reference: 1904.2)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

Subpart C
Recording Criteria

NOTE

Note to Subpart C: This Subpart describes the work-related injuries and illnesses that an employer must enter into the OSHA records and explains the OSHA forms that employers must use to record work-related fatalities, injuries, and illnesses.

71–304. Recording criteria.

(a) Basic requirement. Each employer required by this Part to keep records of fatalities, injuries, and illnesses must record each fatality, injury and illness that:

(1) Is work-related; and

(2) Is a new case; and

(3) Meets one or more of the general recording criteria of 71–307 or the application to specific cases of 71–308 through 71–312.

(b) Implementation.

(1) What sections of this rule describe recording criteria for recording work-related injuries and illnesses? The table below indicates which sections of the rule address each topic.

(i) Determination of work-relatedness. See 71–305.

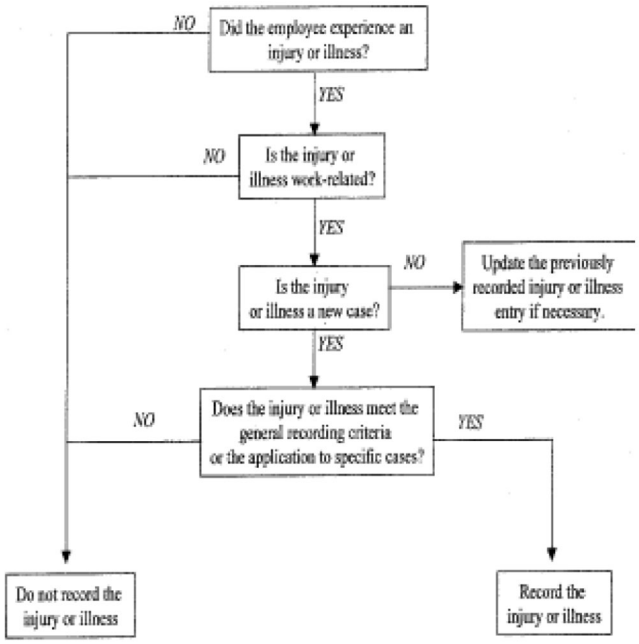
(ii) Determination of a new case. See 71–306.

(iii) General recording criteria. See 71–307.

(iv) Additional criteria. (Needlestick and sharps injury cases, tuberculosis cases, hearing loss cases, medical removal cases, and musculoskeletal disorder cases). See 71–308 through 71–312.

(2) How do I decide whether a particular injury or illness is recordable? The decision tree for recording work-related injuries and illnesses below shows the steps involved in making this determination.

(Cross Reference 1904.4)



HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–305. Determination of work-relatedness.

(a) Basic requirement. You must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness. Work-relatedness is presumed for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in 71–305(b)(2) specifically applies.

(b) Implementation.

(1) What is the "work environment"? OSHA defines the work environment as "the establishment and other locations where one or more employees are working or are present as a condition of their employment. The work environment includes not only physical location, but also the equipment or materials used by the employee during the course of his or her work."

(2) Are there situations where an injury or illness occurs in the work environment and is not considered work-related? Yes, an injury or illness occurring in the work environment that falls under one of the following exceptions is not work-related, and therefore is not recordable.

71–305(b)(2)	You are not required to record injuries and illnesses if ...
(i)	At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee.
(ii)	The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment.
(iii)	The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball.
(iv)	The injury or illness is solely the result of an employee eating, drinking, or preparing food or drink for personal consumption (whether bought on the employer's premises or brought in). For example, if the employee is injured by choking on a sandwich while in the employer's establishment, the case would not be considered work-related.
	NOTE: If the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related.
(v)	The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours.
(vi)	The injury or illness is solely the result of personal grooming, self-medication for a non-work-related condition, or is intentionally self-inflicted.
(vii)	The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.
(viii)	The illness is the common cold or flu (Note: contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work).
(ix)	The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

(3) How do I handle a case if it is not obvious whether the precipitating event or exposure occurred in the work environment or occurred away from work? In these situations, you must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment either caused or contributed to the resulting condition or significantly aggravated a pre-existing condition.

(4) How do I know if an event or exposure in the work environment "significantly aggravated" a preexisting injury or illness? A preexisting injury or illness has been significantly aggravated, for purposes of OSHA injury and illness recordkeeping, when an event or exposure in the work environment results in any of the following:

(i) Death, provided that the preexisting injury or illness would likely not have resulted in death but for the occupational event or exposure.

(ii) Loss of consciousness, provided that the preexisting injury or illness would likely not have resulted in loss of consciousness but for the occupational event or exposure.

(iii) One or more days away from work, or days of restricted work, or days of job transfer that otherwise would not have occurred but for the occupational event or exposure.

(iv) Medical treatment in a case where no medical treatment was needed for the injury or illness before the workplace event or exposure, or a change in medical treatment was necessitated by the workplace event or exposure.

(5) Which injuries and illness are considered pre-existing conditions? An injury or illness is a preexisting condition if it resulted solely from a non-work-related event or exposure that occurred outside the work environment.

(6) How do I decide whether an injury or illness is work-related if the employee is on travel status at the time the injury or illness occurs? Injuries or illnesses that occur while an employee is on travel status are work-related if, at the time of the injury or illness, the employee was engaged in work activities "in the interest of the employer." Examples of such activities include travel to and from customer contacts, conducting job tasks, and entertaining or being entertained to transact, discuss, or promote business (work-related entertainment includes only entertainment activities being engaged in at the direction of the employer). Injuries or illnesses that occur when the employee is on travel status do not have to be recorded if they meet one of the exceptions listed below.

71–305(b)(6)	If the employee has...	You may use the following to determine if an injury or illness is work-related
(i)	Checked into a hotel or motel for one or more days.	When a traveling employee checks into a hotel, motel or into a other temporary residence, or he or she establishes a "home away from home." You must evaluate the employee's activities after he or she checks into the hotel, motel, or other temporary residence for their work-relatedness in the same manner as you evaluate the activities of a non-traveling employee. When the employee checks into the temporary residence, he or she is considered to have left the work environment. When the employee begins work each day, he or she re-enters the work environment. If the employee has established a "home away from home" and is reporting to a fixed worksite each day, you also do not consider injuries or illnesses work-related if they occur while the employee is commuting between the temporary residence and the job location.
(ii)	taken a detour for personal reasons.	Injuries or illnesses are not considered work-related if they occur while the employee is on a personal detour from a reasonably direct route of travel (e.g., has taken a side trip for personal reasons).

(7) How do I decide if a case is work-related when the employee is working at home? Injuries and illnesses that occur while an employee is working at home, including work in a home office, will be considered work-related if the injury or illness occurs while the employee is performing work for pay or compensation in the home, and the injury or illness is directly related to the performance of work rather than to the general home environment or setting. For example, if an employee drops a box of work documents and injures his or her foot, the case is considered work-related. If an employee's fingernail is punctured by a needle from a sewing machine used to perform garment work at home, becomes infected and requires medical treatment, the injury is considered work-related. If an employee is injured because he or she trips on the family dog while rushing to answer a work phone

call, the case is not considered work-related. If an employee working at home is electrocuted because of faulty home wiring, the injury is not considered work-related.

(Cross Reference 1904.5)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–306. Determination of new cases.

(a) Basic requirement. You must consider an injury or illness to be a "new case" if:

(1) The employee has not previously experienced a recorded injury or illness of the same type that affects the same part of the body, or

(2) The employee previously experienced a recorded injury or illness of the same type that affected the same part of the body but had recovered completely (all signs and symptoms had disappeared) from the previous injury or illness and an event or exposure in the work environment caused the signs or symptoms to reappear.

(b) Implementation.

(1) When an employee experiences the signs or symptoms of a chronic work-related illness, do I need to consider each recurrence of signs or symptoms to be a new case? No, for occupational illnesses where the signs or symptoms may recur or continue in the absence of an exposure in the workplace, the case must only be recorded once. Examples may include occupational cancer, asbestosis, byssinosis and silicosis.

(2) When an employee experiences the signs or symptoms of an injury or illness as a result of an event or exposure in the workplace, such as an episode of occupational asthma, must I treat the episode as a new case? Yes, because the episode or recurrence was caused by an event or exposure in the workplace, the incident must be treated as a new case.

(3) May I rely on a physician or other licensed health care professional to determine whether a case is a new case or a recurrence of an old case? You are not required to seek the advice of a physician or other licensed health care professional. However, if you do seek such advice, you must follow the physician or other licensed health care professional's recommendation about whether the case is a new case or a recurrence. If you receive recommendations from two or more physicians or other licensed health care professionals, you must make a decision as to which recommendation is the most authoritative (best documented, best reasoned, or most authoritative), and record the case based upon that recommendation.

(Cross Reference 1904.6)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–307. General recording criteria.

(a) Basic requirement. You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. You must also consider a case to meet the general recording criteria if it involves a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

(b) Implementation.

(1) How do I decide if a case meets one or more of the general recording criteria? A work-related injury or illness must be recorded if it results in one or more of the following:

(i) Death. See 71–307(b)(2).

(ii) Days away from work. See 71–307(b)(3).

(iii) Restricted work or transfer to another job. See 71–307(b)(4).

(iv) Medical treatment beyond first aid. See 71–307(b)(5).

(v) Loss of consciousness. See 71–307(b)(6).

(vi) A significant injury or illness diagnosed by a physician or other licensed health care professional. See 71–307(b)(7).

(2) How do I record a work-related injury or illness that results in the employee's death? You must record an injury or illness that results in death by entering a check mark on the OSHA 300 Log in the space for cases resulting in death. You must also report any work-related fatality to OSHA within eight (8) hours, as required by 71–339.

(3) How do I record a work-related injury or illness that results in days away from work? When an injury or illness involves one or more days away from work, you must record the injury or illness on the OSHA 300 Log with a check mark in the space for cases involving days away and an entry of the number of calendar days away from work in the number of days column. If the employee is out for an extended period of time, you must enter an estimate of the days that the employee will be away, and update the day count when the actual number of days is known.

(i) Do I count the day on which the injury occurred or the illness began? No, you begin counting days away on the day after the injury occurred or the illness began.

(ii) How do I record an injury or illness when a physician or other licensed health care professional recommends that the worker stay at home but the employee comes to work anyway? You must record these injuries and illnesses on the OSHA 300 Log using the check box for cases with days away from work and enter the number of calendar days away recommended by the physician or other licensed health care professional. If a physician or other licensed health care professional recommends days away, you should encourage your employee to follow that recommendation. However, the days away must be recorded whether the injured or ill employee follows the physician or licensed health care professional's recommendation or not. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(iii) How do I handle a case when a physician or other licensed health care professional recommends that the worker return to work but the employee stays at home anyway? In this situation, you must end the count of days away from work on the date the physician or other licensed health care professional recommends that the employee return to work.

(iv) How do I count weekends, holidays, or other days the employee would not have worked anyway? You must count the number of calendar days the employee was unable to work as a result of the injury or illness, regardless of whether or not the employee was scheduled to work on those day(s). Weekend days, holidays, vacation days or other days off are included in the total number of days recorded if the employee would not have been able to work on those days because of work-related injury or illness.

(v) How do I record a case in which a worker is injured or becomes ill on a Friday and reports to work on a Monday, and was not scheduled to work on the weekend? You need to record this case only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the weekend. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(vi) How do I record a case in which a worker is injured or becomes ill on the day before scheduled time off such as a holiday, a planned vacation or a temporary plant closing? You need to record a case of this type only if you receive information from a physician or other licensed health care professional indicating that the employee should not have worked, or should have performed only restricted work, during the scheduled time off. If so, you must record the injury or illness as a case with days away from work or restricted work, and enter the day counts, as appropriate.

(vii) Is there a limit to the number of days away from work I must count? Yes, you may "cap" the total days away at 180 calendar days. You are not required to keep track of the number of calendar days away from work if the injury or illness resulted in more than 180 calendar days away from work and/or days of job transfer or restriction. In such a case, entering 180 in the total days away column will be considered adequate.

(viii) May I stop counting days if an employee who is away from work because of an injury or illness retires or leaves my company? Yes, if the employee leaves your company for some reason unrelated to the injury or illness, such as retirement, a plant closing, or to take another job, you may stop counting days away from work or days of restriction/job transfer. If the employee leaves your company because of the injury or illness, you must estimate the total number of days away or days of restriction/job transfer and enter the day count on the 300 Log.

(ix) If a case occurs in one year but results in days away during the next calendar year, do I record the case in both years? No, you only record the injury or illness once. You must enter the number of calendar days away for the injury or illness on the OSHA 300 Log for the year in which the injury or illness occurred. If the employee is still away from work because of the injury or illness when you prepare the annual summary, estimate the total number of calendar days you expect the employee to be away from work, use this number to calculate the total for the annual summary, and then update the initial log entry later when the day count is known or reaches the 180-day cap.

(4) How do I record a work-related injury or illness that results in restricted work or job transfer? When an injury or illness involves restricted work or job transfer but does not involve death or days away from work, you must record the injury or illness on the OSHA 300 Log by placing a check mark in the space for job transfer or restriction and an entry of the number of restricted or transferred days in the restricted work days column.

(i) How do I decide if the injury or illness resulted in restricted work? Restricted work occurs when, as the result of a work-related injury or illness:

(A) You keep the employee from performing one or more of the routine functions of his or her job, or from working the full workday that he or she would otherwise have been scheduled to work; or

(B) A physician or other licensed health care professional recommends that the employee not perform one or more of the routine functions of his or her job, or not work the full workday that he or she would otherwise have been scheduled to work.

(ii) What is meant by "routine functions"? For recordkeeping purposes, an employee's routine functions are those work activities the employee regularly performs at least once per week.

(iii) Do I have to record restricted work or job transfer if it applies only to the day on which the injury occurred or the illness began? No, you do not have to record restricted work or job transfers if you, or the physician or other licensed health care professional, impose the restriction or transfer only for the day on which the injury occurred or the illness began.

(iv) If you or a physician or other licensed health care professional recommends a work restriction, is the injury or illness automatically recordable as a "restricted work" case? No, a recommended work restriction is recordable only if it affects one or more of the employee's routine job functions. To determine whether this is the case, you must evaluate the restriction in light of the routine functions of the injured or ill employee's job. If the restriction from you or the physician or other licensed health care professional keeps the employee from performing one or more of his or her routine job functions, or from working the full workday the injured or ill employee would otherwise have worked, the employee's work has been restricted and you must record the case.

(v) How do I record a case where the worker works only for a partial work shift because of a work-related injury or illness? A partial day of work is recorded as a day of job transfer, or restriction for recordkeeping purposes, except for the day on which the injury occurred or the illness began.

(vi) If the injured or ill worker produces fewer goods or services than he or she would have produced prior to the injury or illness but otherwise performs all of the routine functions of his or her work, is the case considered a restricted work case? No, the case is considered restricted work only if the worker does not perform all of the routine functions of his or her job or does not work the full shift that he or she would otherwise have worked.

(vii) How do I handle vague restrictions from a physician or other licensed health care professional, such as that the employee engage only in "light duty" or "take it easy for a week"? If you are not clear about the physician or other licensed health care professional's recommendation,

you may ask that person whether the employee can do all of his or her routine job functions and work all of his or her normally assigned work shift. If the answer to both of these questions is "Yes," then the case does not involve a work restriction and does not have to be recorded as such. If the answer to one or both of these questions is "No," the case involves restricted work and must be recorded as a restricted work case. If you are unable to obtain this additional information from the physician or other licensed health care professional that recommended the restriction, record the injury or illness as a case involving restricted work.

(viii) What do I do if a physician or other licensed health care professional recommends a job restriction meeting OSHA's definition, but the employee does all of his or her routine job functions anyway? You must record the injury or illness on the OSHA 300 Log as a restricted work case. If a physician or other licensed health care professional recommends a job restriction, you should ensure that the employee complies with that restriction. If you receive recommendations from two or more physicians or other licensed health care professionals, you may make a decision as to which recommendation is the most authoritative, and record the case based upon that recommendation.

(ix) How do I decide if an injury or illness involved a transfer to another job? If you assign an injured or ill employee to a job other than his or her regular job for part of the day, the case involves transfer to another job.

Note: This does not include the day on which the injury or illness occurred.

(x) Are transfers to another job recorded in the same way as restricted work cases? Yes, both job transfer and restricted work cases are recorded in the same box on the OSHA 300 Log. For example, if you assign, or a physician or other licensed health care professional recommends that you assign, an injured or ill worker to his or her routine job duties for part of the day and to another job for the rest of the day, the injury or illness involves a job transfer. You must record an injury or illness that involves a job transfer by placing a check in the box for job transfer.

(xi) How do I count days of job transfer or restriction? You count days of job transfer or restriction in the same way you count days away from work, using 71–307(b)(3)(i) to (viii), above. The only difference is that, if you permanently assign the injured or ill employee to a job that has been modified or permanently changed in a manner that eliminates the routine functions the employee was restricted from performing, you may stop the day count when the modification or change is made permanent. You must count at least one day of restricted work or job transfer for such cases.

(5) How do I record an injury or illness that involves medical treatment beyond first aid? If a work-related injury or illness results in medical treatment beyond first aid, you must record it on the OSHA 300 Log. If the injury or illness did not involve death, one or more days away from work, one or more days of restricted work, or one or more days of job transfer, you enter a check mark in the box for cases where the employee received medical treatment but remained at work and was not transferred or restricted.

(i) What is the definition of medical treatment? "Medical treatment" means the management and care of a patient to combat disease or disorder. For the purposes of Subarticle 3, medical treatment does not include:

(A) Visits to a physician or other licensed health care professional solely for observation or counseling;

(B) The conduct of diagnostic procedures, such as x-rays and blood tests, including the administration of prescription medications used solely for diagnostic purposes (e.g., eye drops to dilate pupils); or

(C) "First aid" as defined in paragraph (b)(5)(ii) of this section.

(ii) What is "first aid"? For the purposes of Subarticle 3, "first aid" means the following:

(A) Using a non-prescription medication at nonprescription strength (for medications available in prescription and non-prescription form, a recommendation by a physician or other licensed health care professional to use a non-prescription medication at prescription strength is considered medical treatment for recordkeeping purposes);

(B) Administering tetanus immunizations (other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment);

(C) Cleaning, flushing or soaking wounds on the surface of the skin;

(D) Using wound coverings such as bandages, Band-Aids™, gauze pads, etc.; or using butterfly bandages or Steri-Strips™ (other wound closing devices such as sutures, staples, etc., are considered medical treatment);

(E) Using hot or cold therapy;

(F) Using any non-rigid means of support, such as elastic bandages, wraps, non-rigid back belts, etc. (devices with rigid stays or other systems designed to immobilize parts of the body are considered medical treatment for recordkeeping purposes);

(G) Using temporary immobilization devices while transporting an accident victim (e.g., splints, slings, neck collars, back boards, etc.);

(H) Drilling of a fingernail or toenail to relieve pressure, or draining fluid from a blister;

(I) Using eye patches;

(J) Removing foreign bodies from the eye using only irrigation or a cotton swab;

(K) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means;

(L) Using finger guards;

(M) Using massages (physical therapy or chiropractic treatment are considered medical treatment for recordkeeping purposes); or

(N) Drinking fluids for relief of heat stress.

(iii) Are any other procedures included in first aid? No, this is a complete list of all treatments considered first aid for Subarticle 3 purposes.

(iv) Does the professional status of the person providing the treatment have any effect on what is considered first aid or medical treatment? No, OSHA considers the treatment listed in 71–307(b)(5)(ii) of this Part to be first aid regardless of the professional status of the person providing the treatment. Even when these treatments are provided by a physician or other licensed health care professional, they are considered first aid for the purposes of Subarticle 3. Similarly, OSHA considers treatment beyond first aid to be medical treatment even when it is provided by someone other than a physician or other licensed health care professional.

(v) What if a physician or other licensed health care professional recommends medical treatment but the employee does not follow the recommendation? If a physician or other licensed health care professional recommends medical treatment, you should encourage the injured or ill employee to follow that recommendation. However, you must record the case even if the injured or ill employee does not follow the physician or other licensed health care professional's recommendation.

(6) Is every work-related injury or illness case involving a loss of consciousness recordable? Yes, you must record a work-related injury or illness if the worker becomes unconscious, regardless of the length of time the employee remains unconscious.

(7) What is a "significant" diagnosed injury or illness that is recordable under the general criteria even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness? Work-related cases involving cancer, chronic irreversible disease, a fractured or cracked bone, or a punctured eardrum must always be recorded under the general criteria at the time of diagnosis by a physician or other licensed health care professional.

Note to 71–307: OSHA believes that most significant injuries and illnesses will result in one of the criteria listed in 71–307(a): death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness. However, there are some significant injuries, such as a punctured eardrum or fractured toe or rib, for which neither medical treatment nor work restrictions may be recommended. In addition, there are some significant progressive diseases, such as byssinosis, silicosis, and some types of cancer, for which medical treatment or work restrictions may not be recommended at the time of diagnosis but are likely to be recommended as the disease progresses.

OSHA believes that cancer, chronic irreversible diseases, fractured or cracked bones, and punctured eardrums are generally considered significant injuries and illnesses, and must be recorded at the initial diagnosis even if medical treatment or work restrictions are not recommended, or are postponed, in a particular case.

(Cross Reference 1904.7)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–308. Recording criteria for needlestick and sharps injuries.

(a) Basic requirement. You must record all work-related needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (as defined by 29 CFR 1910.1030). You must enter the case on the OSHA 300 Log as an injury. To protect the employee's privacy, you may not enter the employee's name on the OSHA 300 Log (see the requirements for privacy cases in paragraphs, 71–329(b)(6) through 71–329(b)(9)).

(b) Implementation.

(1) What does "other potentially infectious material" mean? The term "other potentially infectious materials" is defined in the OSHA Bloodborne Pathogens standard at 1910.1030(b). These materials include:

(i) Human bodily fluids, tissues and organs, and

(ii) Other materials infected with the HIV or hepatitis B (HBV) virus such as laboratory cultures or tissues from experimental animals.

(2) Does this mean that I must record all cuts, lacerations, punctures, and scratches? No, you need to record cuts, lacerations, punctures, and scratches only if they are work-related and involve contamination with another person's blood or other potentially infectious material. If the cut, laceration, or scratch involves a clean object, or a contaminant other than blood or other potentially infectious material, you need to record the case only if it meets one or more of the recording criteria in 71–307.

(3) If I record an injury and the employee is later diagnosed with an infectious bloodborne disease, do I need to update the OSHA 300 Log? Yes, you must update the classification of the case on the OSHA 300 Log if the case results in death, days away from work, restricted work, or job transfer. You must also update the description to identify the infectious disease and change the classification of the case from an injury to an illness.

(4) What if one of my employees is splashed or exposed to blood or other potentially infectious material without being cut or scratched? Do I need to record this incident? You need to record such an incident on the OSHA 300 Log as an illness if:

(i) It results in the diagnosis of a bloodborne illness, such as HIV, hepatitis B, or hepatitis C; or

(ii) It meets one or more of the recording criteria in 71–307.

(Cross Reference: 1904.8)

HISTORY: Amended by State Register Volume 18, Issue No. 7, eff July 22, 1994; State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–309. Recording criteria for cases involving medical removal under OSHA standards.

(a) Basic requirement. If an employee is medically removed under the medical surveillance requirements of an OSHA standard, you must record the case on the OSHA 300 Log.

(b) Implementation.

(1) How do I classify medical removal cases on the OSHA 300 Log? You must enter each medical removal case on the OSHA 300 Log as either a case involving days away from work or a case involving restricted work activity, depending on how you decide to comply with the medical removal requirement. If the medical removal is the result of a chemical exposure, you must enter the case on the OSHA 300 Log by checking the "poisoning" column.

(2) Do all of OSHA's standards have medical removal provisions? No, some OSHA standards, such as the standards covering bloodborne pathogens and noise, do not have medical removal provisions.

Many OSHA standards that cover specific chemical substances have medical removal provisions. These standards include, but are not limited to lead, cadmium, methylene chloride, formaldehyde, and benzene.

(3) Do I have to record a case where I voluntarily removed the employee from exposure before the medical removal criteria in an OSHA standard is met? No, if the case involves voluntary medical removal before the medical removal levels required by an OSHA standard, you do not need to record the case on the OSHA 300 Log.

(Cross Reference 1904.9)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–310. Recording criteria for cases involving occupational hearing loss.

(a) Basic requirement.

If an employee's hearing test (audiogram) reveals that the employee has experienced a work-related Standard Threshold Shift (STS) in hearing in one or both ears, and the employee's total hearing level is 25 decibels (dB) or more above audiometric zero (averaged at 2000, 3000, and 4000 Hz) in the same ear(s) as the STS, you must record the case on the OSHA 300 Log.

(b) Implementation.

(1) What is a Standard Threshold Shift? A Standard Threshold Shift, or STS, is defined in the occupational noise exposure standard at 29 CFR 1910.95(g)(10)(i) as a change in hearing threshold, relative to the baseline audiogram for that employee, of an average of 10 decibels (dB) or more at 2000, 3000, and 4000 hertz (Hz) in one or both ears.

(2) How do I evaluate the current audiogram to determine whether an employee has an STS and a 25-dB hearing level?

(i) STS. If the employee has never previously experienced a recordable hearing loss, you must compare the employee's current audiogram with that employee's baseline audiogram. If the employee has previously experienced a recordable hearing loss, you must compare the employee's current audiogram with the employee's revised baseline audiogram (the audiogram reflecting the employee's previous recordable hearing loss case).

(ii) 25-dB loss. Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee/s current audiogram, you must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee's total hearing level is 25 dB or more.

(3) May I adjust the current audiogram to reflect the effects of aging on hearing? Yes. When you are determining whether an STS has occurred, you may age adjust the employee's current audiogram results by using Tables F-1 or F-2, as appropriate, in Appendix F of 29 CFR 1910.95. You may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero.

(4) Do I have to record the hearing loss if I am going to retest the employee's hearing? No, if you retest the employee's hearing within 30 days of the first test, and the first test does not confirm the recordable STS, you are not required to record the hearing loss case on the OSHA 300 Log. If the test confirms the recordable STS, you must record the hearing loss illness within seven (7) calendar days of the retest. If subsequent audiometric testing performed under the testing requirements of the 1910.95 noise standard indicate that an STS is not persistent, you may erase or line-out the recorded entry.

(5) Are there any special rules for determining whether a hearing loss case is work-related? No. You must use the rules in 71–305 to determine if the hearing loss is work-related. If an event or exposure in the work environment either caused or contributed to the hearing loss, or significantly aggravated a pre-existing hearing loss, you must consider the case to be work related.

(6) If a physician or other licensed health care professional determines the hearing loss is not work-related, do I still need to record the case? If a physician or other licensed health care professional determines that the hearing loss is not work-related or has not been significantly

aggravated by occupational noise exposure, you are not required to consider the case work-related or to record the case on the OSHA 300 Log.

(7) How do I complete the 300 Log for a hearing loss case? When you enter a recordable hearing loss case on the OSHA 300 Log, you must check the column for hearing loss. (Note: S.C. Code of Regulations Section 71–310(b)(7) is effective beginning January 1, 2004.)

(Cross Reference: 1904.10)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–311. Recording criteria for work-related tuberculosis cases.

(a) Basic requirement. If any of your employees has been occupationally exposed to anyone with a known case of active tuberculosis (TB), and that employee subsequently develops a tuberculosis infection, as evidenced by a positive skin test or diagnosis by a physician or other licensed health care professional, you must record the case on the OSHA 300 Log by checking the ''respiratory condition'' column.

(b) Implementation.

(1) Do I have to record, on the Log, a positive TB skin test result obtained at a pre-employment physical? No, you do not have to record it because the employee was not occupationally exposed to a known case of active tuberculosis in your workplace.

(2) May I line-out or erase a recorded TB case if I obtain evidence that the case was not caused by occupational exposure? Yes, you may line-out or erase the case from the Log under the following circumstances:

(i) The worker is living in a household with a person who has been diagnosed with active TB;

(ii) The Public Health Department has identified the worker as a contact of an individual with a case of active TB unrelated to the workplace; or

(iii) A medical investigation shows that the employee's infection was caused by exposure to TB away from work, or proves that the case was not related to the workplace TB exposure.

(Cross Reference: 1904.11)

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–329. Forms.

(a) Basic requirement. You must use OSHA 300, 300-A, and 301 forms, or equivalent forms, for recordable injuries and illnesses. The OSHA 300 form is called the Log of Work-Related Injuries and Illnesses, the 300-A is the Summary of Work-Related Injuries and Illnesses, and the OSHA 301 form is called the Injury and Illness Incident Report.

(b) Implementation.

(1) What do I need to do to complete the OSHA 300 Log? You must enter information about your business at the top of the OSHA 300 Log, enter a one or two line description for each recordable injury or illness and summarize this information on the OSHA 300-A at the end of the year.

(2) What do I need to do to complete the OSHA 301 Incident Report? You must complete an OSHA 301 Incident Report form, or an equivalent form, for each recordable injury or illness entered on the OSHA 300 Log.

(3) How quickly must each injury or illness be recorded? You must enter each recordable injury or illness on the OSHA 300 Log and 301 Incident Report within seven [7] calendar days of receiving information that a recordable injury or illness has occurred.

(4) What is an equivalent form? An equivalent form is one that has the same information, is as readable and understandable, and is completed using the same instructions as the OSHA form it replaces. Many employers use an insurance form instead of the OSHA 301 Incident Report, or supplement an insurance form by adding any additional information required by OSHA.

(5) May I keep my records on a computer? Yes, if the computer can produce equivalent forms when they are needed, as described under 71–335 and 71–340; you may keep your records using the computer system.

(6) Are there situations where I do not put the employee's name on the forms for privacy reasons? Yes, if you have a "privacy concern case," you may not enter the employee's name on the OSHA 300 Log. Instead, enter "privacy case" in the space normally used for the employee's name. This will protect the privacy of the injured or ill employee when another employee, a former employee, or an authorized employee representative is provided access to the OSHA 300 Log under 71–335(b)(2). You must keep a separate, confidential list of the case numbers and employee names for your privacy concern cases so you can update the cases and provide the information to the government if asked to do so.

(7) How do I determine if an injury or illness is a privacy concern case? You must consider the following injuries or illnesses to be privacy concern cases:

(i) An injury or illness to an intimate body part or the reproductive system;

(ii) An injury or illness resulting from a sexual assault;

(iii) Mental illness;

(iv) HIV infection, hepatitis, or tuberculosis;

(v) Needlestick injuries and cuts from sharp objects that are contaminated with another person's blood or other potentially infectious material (see 71–308 for definitions); and

(vi) Other illnesses, if the employee voluntarily requests that his or her name not be entered on the log.

(8) May I classify any other types of injuries and illnesses as privacy concern cases? No, this is a complete list of all injuries and illnesses considered privacy concern cases for Subarticle 3 purposes.

(9) If I have removed the employee's name, but still believe that the employee may be identified from the information on the forms, is there anything else that I can do further protect the employee's privacy? Yes, if you have a reasonable basis to believe that information describing the privacy concern case may be personally identifiable even though the employee's name has been omitted, you may use discretion in describing the injury or illness on both the OSHA 300 and 301 forms. You must enter enough information to identify the cause of the incident and the general severity of the injury or illness, but you do not need to include details of an intimate or private nature. For example, a sexual assault case could be described as "injury from assault," or an injury to a reproductive organ could be described as "lower abdominal injury."

(10) What must I do to protect employee privacy if I wish to provide access to the OSHA Forms 300 and 301 to persons other than government representatives, employees, former employees or authorized representatives? If you decide to voluntarily disclose the Forms to persons other than government representatives, employees, former employees or authorized representatives (as required by 71–335 and 71–340), you must remove or hide the employees' names and other personally identifying information, except for the following cases. You may disclose the Forms with personally identifying information only:

(i) to an auditor or consultant hired by the employer to evaluate the safety and health program;

(ii) to the extent necessary for processing a claim for workers' compensation or other insurance benefits; or

(iii) to a public health authority or law enforcement agency for uses and disclosures for which consent, and authorization, or opportunity to agree or object is not required under Department of Health and Human Services Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.512.

(Cross Reference: 1904.29)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003; State Register Volume 28, Issue No. 5, eff May 28, 2004; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

Subpart D
Other OSHA Injury and Illness Recordkeeping Requirements

71–330. Multiple business establishments.

(a) Basic requirement. You must keep a separate OSHA 300 Log for each establishment that is expected to be in operation for one year or longer.

(b) Implementation.

(1) Do I need to keep OSHA injury and illness records for short-term establishments (i.e., establishments that will exist for less than a year)? Yes, however, you do not have to keep a separate OSHA 300 Log for each such establishment. You may keep one OSHA 300 Log that covers all of your short-term establishments. You may also include the short-term establishments recordable injuries and illnesses on an OSHA 300 Log that covers short-term establishments for individual company divisions or geographic regions.

(2) May I keep the records for all of my establishments at my headquarters location or at some other central location? Yes, you may keep the records for an establishment at your headquarters or other central location if you can:

(i) Transmit information about the injuries and illnesses from the establishment to the central location within seven (7) calendar days of receiving information that a recordable injury or illness has occurred; and

(ii) Produce and send the records from the central location to the establishment within the time frames required by 71–335 and 71–340 when you are required to provide records to a government representative, employees, former employees or employee representatives.

(3) Some of my employees work at several different locations or do not work at any of my establishments at all. How do I record cases for these employees? You must link each of your employees with one of your establishments, for recordkeeping purposes. You must record the injury and illness on the OSHA 300 Log of the injured or ill employee's establishment or on an OSHA 300 Log that covers that employee's short-term establishment.

(4) How do I record an injury or illness when an employee of one of my establishments is injured or becomes ill while visiting or working at another of my establishments, or while working away from any of my establishments? If the injury or illness occurs at one of your establishments, you must record the injury or illness on the OSHA 300 Log of the establishment at which the injury or illness occurred. If the employee is injured or becomes ill and is not at one of your establishments, you must record the case on the OSHA 300 Log at the establishment at which the employee normally works.

(Cross Reference 1904.30)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–331. Covered employees.

(a) Basic requirement. You must record on the OSHA 300 Log the recordable injuries and illnesses of all employees on your payroll, whether they are labor, executive, hourly, salary, part-time, seasonal or migrant workers. You also must record the recordable injuries and illnesses that occur to employees who are not on your payroll if you supervise these employees on a day-to-day basis. If your business is organized as a sole proprietorship or partnership, the owner or partners are not considered employees for recordkeeping purposes.

(b) Implementation.

(1) If a self-employed person is injured or becomes ill while doing work at my business, do I need to record the injury or illness? No, self-employed individuals are not covered by the OSHA Act or this regulation.

(2) If I obtain employees from a temporary help service, employee leasing service, or personnel supply service; do I have to record an injury or illness occurring to one of those employees? You must record these injuries and illnesses if you supervise these employees on a day-to-day basis.

(3) If an employee in my establishment is a contractor's employee, must I record an injury or illness occurring to that employee? If the contractor's employee is under the day-to-day supervision of the contractor, the contractor is responsible for recording the injury or illness. If you supervise the contractor employee's work on a day-to-day basis, you must record the injury or illness.

(4) Must the personnel supply service, temporary help service, employee leasing service, or contractor also record the injuries or illnesses occurring to temporary, leased or contract employees that I supervise on a day-to-day basis? No, you and the temporary help service, employee leasing service, personnel supply service, or contractor should coordinate your efforts to make sure that each injury and illness is recorded only once; either on your OSHA 300 Log (if you provide day-to-day supervision) or on the other employ Section 1926.20 (a) Contractor Requirements. l) No contractor or subcontractor for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety.

(Cross Reference 1904.31)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–332. Annual summary.

(a) Basic requirement. At the end of each calendar year, you must:

(1) Review the OSHA 300 Log to verify that the entries are complete and accurate, and correct any deficiencies identified;

(2) Create an annual summary of injuries and illnesses recorded on the OSHA 300 Log;

(3) Certify the summary; and

(4) Post the annual summary.

(b) Implementation.

(1) How extensively do I have to review the OSHA 300 Log entries at the end of the year? You must review the entries as extensively as necessary to make sure that they are complete and correct.

(2) How do I complete the annual summary? You must:

(i) Total the columns on the OSHA 300 Log (if you had no recordable cases, enter zeros for each column total); and

(ii) Enter the calendar year covered, the company's name, establishment name, establishment address, annual average number of employees covered by the OSHA 300 Log, and the total hours worked by all employees covered by the OSHA 300 Log.

(iii) If you are using an equivalent form other than the OSHA 300-A summary from, as permitted under 71–306(b)(4), the summary you use must also include the employee access and employer penalty statements found on the OSHA 300-A Summary form.

(3) How do I certify the annual summary? A company executive must certify that he or she has examined the OSHA 300 Log and that he or she reasonably believes, based on his or her knowledge of the process by which the information was recorded that the annual summary is correct and complete.

(4) Who is considered a company executive? The company executive who certifies the log must be one of the following persons:

(i) An owner of the company (only if the company is a sole proprietorship or partnership);

(ii) An officer of the corporation;

(iii) The highest ranking company official working at the establishment; or

(iv) The immediate supervisor of the highest ranking company official working at the establishment;

(5) How do I post the annual summary? You must post a copy of the annual summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the posted annual summary is not altered, defaced or covered by other material.

(6) When do I have to post the annual summary? You must post the summary no later than February 1 of the year following the year covered by the records and keep the posting in place until April 30.

(Cross Reference 1904.32)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–333. Retention and updating.

(a) Basic requirement. You must save the OSHA 300 Log, the privacy case list (if one exists), the annual summary, and the OSHA 301 Incident Report forms for five (5) years following the end of the calendar year that these records cover.

(b) Implementation.

(1) Do I have to update OSHA 300 Log during the five-year storage period? Yes, during the storage period, you must update your stored OSHA 300 Logs to include newly discovered recordable injuries or illnesses and to show any changes that have occurred in the classification of previously recorded injuries and illnesses. If the description or outcome of a case changes, you must remove or line out the original entry and enter the new information.

(2) Do I have to update the annual summary? No, you are not required to update the annual summary, but you may do so if you wish.

(3) Do I have to update the OSHA 301 Incident Reports? No, you are not required to update the OSHA 301 Incident Reports, but you may do so if you wish.

(Cross Reference 1904.33)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–334. Change in business ownership.

If your business changes ownership, you are responsible for recording and reporting work-related injuries and illnesses only for that period of the year during which owned the establishment. You must transfer the Subarticle 3 records to the new owner. The new owner must save all records of the establishment kept by the prior owner, as required by 71–333 of this Part, but need not update or correct the records of the prior owner.

(Cross Reference 1904.34).

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–335. Employee involvement.

(a) Basic requirement. Your employees and their representatives must be involved in the record-keeping system in several ways.

(1) You must inform each employee of how he or she is to report a work-related injury or illness to you.

(2) You must provide employees with the information described in paragraph (b)(1)(iii) of this section.

(3) You must provide access to your injury and illness records for your employees and their representatives as described in paragraph (b)(2) of this section.

(b) Implementation.

(1) What must I do to make sure that employees report work-related injuries and illnesses to me?

(i) You must establish a reasonable procedure for employees to report work-related injuries and illnesses promptly and accurately. A procedure is not reasonable if it would deter or discourage a reasonable employee from accurately reporting a workplace injury or illness;

(ii) You must inform each employee of your procedure for reporting work-related injuries and illnesses;

(iii) You must inform each employee that:

(A) Employees have the right to report work-related injuries and illnesses; and

(B) Employers are prohibited from discharging or in any manner discriminating against employees for reporting work-related injuries or illnesses; and

(iv) You must not discharge or in any manner discriminate against any employee for reporting a work-related injury or illness.

(2) Do I have to give my employees and their representatives access to the OSHA injury and illness records? Yes, your employees, former employees, their personal representatives, and their authorized employee representatives have the right to access the OSHA injury and illness records, with some limitations, as discussed below.

(i) Who is an authorized employee representative? An authorized employee representative is an authorized collective bargaining agent of employees.

(ii) Who is a "personal representative" of an employee or former employee? A personal representative is:

(A) Any person that the employee or former employee designates as such, in writing; or

(B) The legal representative of a deceased or legally incapacitated employee or former employee.

(iii) If an employee or representative asks for access to the OSHA 300 Log, when do I have to provide it? When an employee, former employee, personal representative, or authorized employee representative asks for copies for your current or stored OSHA 300 Log(s) for an establishment the employee or former employee has worked in, you must give the requester a copy of the relevant OSHA 300 Log(s) by the end of the next business day.

(iv) May I remove the names of the employees or any other information from the OSHA 300 Log before I give copies to an employee, former employee, or employee representative? No, you must leave the names on the 300 Log. However, to protect the privacy of injured and ill employees, you may not record the employee's name on the OSHA 300 Log for certain "privacy concern cases," as specified in paragraphs 71–329(b)(6) through 71–329(b)(9).

(v) If an employee or representative asks for access to the OSHA 301 Incident Report, when do I have to provide it?

(A) When an employee, former employee, or personal representative asks for a copy of the OSHA 301 Incident Report describing an injury or illness to that employee or former employee, you must give the requester a copy of the OSHA 301 Incident Report containing that information by the end of the next business day.

(B) When an authorized employee representative asks for copies of the OSHA 301 Incident Reports for an establishment where the agent represents employees under a collective bargaining agreement, you must give copies of those forms to the authorized employee representative within 7 calendar days. You are only required to give the authorized employee representative information from the OSHA 301 Incident Report section titled "Tell us about the case." You must remove all other information from the copy of the OSHA 301 Incident Report or the equivalent substitute form that you give to the authorized employee representative.

(vi) May I charge for the copies? No, you may not charge for these copies the first time they are provided. However, if one of the designated persons asks for additional copies, you may assess a reasonable charge for retrieving and copying the records.

(Cross Reference 1904.35)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–336. Prohibition against discrimination.

In addition to Section 71–335, section 11(c) of the OSH Act also prohibits you from discriminating against an employee for reporting a work-related fatality, injury, or illness. That provision of the Act also protects the employee who files a safety and health complaint, asks for access to the Subarticle 3 records, or otherwise exercises any rights afforded by the OSH Act.

(Cross Reference: 1904.36)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–337. State recordkeeping regulations.

(a) *Basic requirement.* Some States operate their own OSHA programs, under the authority of a State plan as approved by OSHA. States operating OSHA-approved State plans must have occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in this part (see 29 CFR 1902.3(j), 29 CFR 1902.7, and 29 CFR 1956.10(i)).

(b) Implementation.

(1) State-Plan States must have the same requirements as Federal OSHA for determining which injuries and illnesses are recordable and how they are recorded.

(2) For other Subarticle 3 provisions (for example, industry exemptions, reporting of fatalities and hospitalizations, record retention, or employee involvement), State-Plan State requirements may be more stringent than or supplemental to the Federal requirements, but because of the unique nature of the national recordkeeping program, States must consult with and obtain approval of any such requirements.

(3) Although State and local government employees are not covered Federally, all State-Plan States must provide coverage, and must develop injury and illness statistics, for these workers. State Plan recording and reporting requirements for State and local government entities may differ from those for the private sector but must meet the requirements of paragraphs 71–337(b)(1) and (b)(2).

(4) A State Plan State may not issue a variance to a private sector employer and must recognize all variances issued by Federal OSHA.

(5) A State Plan State may only grant an injury and illness recording and reporting variance to a state or local government employer within the State after obtaining approval to grant the variance from Federal OSHA.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

SUBPART E
Reporting Fatality, Injury and Illness Information to the Government

71–339. Reporting fatalities, hospitalizations, amputations, and losses of an eye as a result of work-related incidents to OSHA.

(a) Basic requirement.

(1) Within eight (8) hours after the death of any employee as a result of a work-related incident, you must report the fatality to the South Carolina Occupational Safety and Health Administration (SC OSHA), Division of the South Carolina Department of Labor, Licensing and Regulation, Columbia, South Carolina, 29211.

(2) Within twenty-four (24) hours after the in-patient hospitalization of one or more employees or an employee's amputation or an employee's loss of an eye, as a result of a work-related incident, you must report the in-patient hospitalization, amputation, or loss of an eye to OSHA.

(3) You must report the fatality, in-patient hospitalization, amputation, or loss of an eye using one of the following methods:

(i) By telephone (1–803–896–7672) or in person to the South Carolina OSHA Office.

(ii) By telephone to the OSHA toll-free central telephone number, 1–800–321-OSHA (1–800–321–6742).

(b) Implementation.

(1) If the Area Office is closed, may I report the fatality, in-patient hospitalization, amputation, or loss of an eye by leaving a message on OSHA's answering machine, faxing the Area office, or sending an e-mail?

No, if you can't talk to a person at the Area Office, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye by either using 1–800–321-OSHA or 1–803–896–7672.

(2) What information do I need to give to OSHA about the in-patient hospitalization, amputation, or loss of an eye? You must give OSHA the following information for each fatality, in-patient hospitalization, amputation, or loss of an eye:

(i) The establishment name;

(ii) The location of the work-related incident;

(iii) The time of the work-related incident;

(iv) The type of reportable event (i.e. fatality, in-patient hospitalization, amputation, or loss of an eye);

(v) The number of employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

(vi) The names of the employees who suffered a fatality, in-patient hospitalization, amputation, or loss of an eye;

(vii) Your contact person and his or her phone number; and

(viii) A brief description of the work-related incident.

(3) Do I have to report the fatality, inpatient hospitalization, amputation, or loss of an eye if it resulted from a motor vehicle accident on a public street or highway? If the motor vehicle accident occurred in a construction work zone, you must report the fatality, in-patient hospitalization, amputation, or loss of an eye. If the motor vehicle accident occurred on a public street or highway, but not in a construction work zone, you do not have to report the fatality, inpatient hospitalization, amputation, or loss of an eye to OSHA. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(4) Do I have to report the fatality, inpatient hospitalization, amputation, or loss of an eye if it occurred on a commercial or public transportation system? No, you do not have to report the fatality, in-patient hospitalization, amputation, or loss of an eye to OSHA if it occurred on a commercial or public transportation system (e.g., airplane, train, subway, or bus). However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(5) Do I have to report a work-related fatality or in-patient hospitalization caused by a heart attack? Yes, your local OSHA Area Office director will decide whether to investigate the event, depending on the circumstances of the heart attack.

(6) What if the fatality, in-patient hospitalization, amputation, or loss of an eye does not occur during or right after the work-related incident? You must only report a fatality to OSHA if the fatality occurs within thirty (30) days of the work-related incident. For an in-patient hospitalization, amputation, or loss of an eye, you must only report the event to OSHA if it occurs within twenty-four (24) hours of the work-related incident. However, the fatality, in-patient hospitalization, amputation, or loss of an eye must be recorded on your OSHA injury and illness records, if you are required to keep such records.

(7) What if I don't learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye right away? If you do not learn about a reportable fatality, in-patient hospitalization, amputation, or loss of an eye at the time it takes place, you must make the report to OSHA within the following time period after the fatality, in-patient hospitalization, amputation, or loss of an eye is reported to you or to any of your agent(s): Eight (8) hours for a fatality, and twenty-four (24) hours for an in-patient hospitalization, an amputation, or a loss of an eye.

(8) What if I don't learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident? If you do not learn right away that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident, you must make the report to OSHA within the following time period after you or any of your agent(s) learn that the reportable fatality, in-patient hospitalization, amputation, or loss of an eye was the result of a work-related incident: Eight (8) hours for a fatality, and twenty-four (24) hours for an inpatient hospitalization, an amputation, or a loss of an eye.

(9) How does OSHA define "in-patient hospitalization"? OSHA defines inpatient hospitalization as a formal admission to the in-patient service of a hospital or clinic for care or treatment.

(10) Do I have to report an in-patient hospitalization that involves only observation or diagnostic testing? No, you do not have to report an in-patient hospitalization that involves only observation or diagnostic testing. You must only report to OSHA each inpatient hospitalization that involves care or treatment.

(11) How does OSHA define "amputation"? An amputation is the traumatic loss of a limb or other external body part. Amputations include a part, such as a limb or appendage, that has been severed, cut off, amputated (either completely or partially); fingertip amputations with or without bone loss; medical amputations resulting from irreparable damage; amputations of body parts that have since been reattached. Amputations do not include avulsions, enucleations, deglovings, scalpings, severed ears, or broken or chipped teeth.(Cross Reference: 1904.39)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by State Register Volume 31, Issue No. 6, eff June 22, 2007; State Register Volume 39, Issue No. 6, Doc. No. 4558, eff June 26, 2015; SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–340. Providing records to government representatives.

(a) Basic requirement. When an authorized government representative asks for the records you keep under Subarticle 3, you must provide copies of the records within four (4) business hours.

(b) Implementation.

(1) What government representatives have the right to get copies of my Subarticle 3 records? The government representatives authorized to receive the records are:

(i) A representative of the Secretary of Labor conducting an inspection or investigation under the Act;

(ii) A representative of the Secretary of Health and Human Services (including the National Institute for Occupational Safety and Health-NIOSH) conducting an investigation under section 20(b) of the Act, or

(iii) A representative of a State agency responsible for administering a State plan approved under section 18 of the Act.

(2) Do I have to produce the records within four (4) hours if my records are kept at a location in a different time zone? OSHA will consider your response to be timely if you give the records to the government representative within four (4) business hours of the request. If you maintain the records at a location in a different time zone, you may use the business hours of the establishment at which the records are located when calculating the deadline.

(Cross Reference 1904.40)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–341. Electronic submission of injury and illness records to OSHA.

(a) Basic requirements

(1) Annual electronic submission of Subarticle 3 records by establishments with 250 or more employees. If your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must electronically submit information from the three recordkeeping forms that you keep under this part (OSHA Form 300A Summary of Work-Related Injuries and Illnesses, OSHA Form 300 Log of Work-Related Injuries and Illnesses, and OSHA Form 301 Injury and Illness Incident Report) to OSHA or OSHA's designee. You must submit the information once a year, no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form.

(2) Annual electronic submission of OSHA Form 300A Summary of Work-Related Injuries and Illnesses by establishments with 20 or more employees but fewer than 250 employees in designated industries. If your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to subpart E of this part, then you must electronically submit information from OSHA Form 300A Summary of Work-Related Injuries and Illnesses to OSHA or OSHA's designee. You must submit the information once a year no later than the date listed in paragraph (c) of this section of the year after the calendar year covered by the form.

(3) Electronic submission of Subarticle 3 records upon notification. Upon notification, you must electronically submit the requested information from your Subarticle 3 records to OSHA or OSHA's designee

(b) Implementation

(1) Does every employer have to routinely submit information from the injury and illness records to OSHA? No, only two categories of employers must routinely submit information from their injury and illness records. First, if your establishment had 250 or more employees at any time during the previous calendar year, and this part requires your establishment to keep records, then you must submit the required Form 300A, 300 and 301 information to OSHA once a year. Second, if your establishment had 20 or more employees but fewer than 250 employees at any time during the previous calendar year, and your establishment is classified in an industry listed in appendix A to subpart E of this part, then you must submit the required Form 300A information to OSHA once a year. Employers in these two categories must submit the required information by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form or forms (for example, 2017 for the 2016 forms). If you are not in either of these two categories, then you must submit information from the injury and illness records to OSHA only if OSHA notifies you to do so for an individual data collection.

(2) If I have to submit information under paragraph (a)(1) of this section, do I have to submit all of the information from the recordkeeping form? No, you are required to submit all of the information from the form except the following:

(i) Log of Work-Related Injuries and Illnesses (OSHA Form 300): Employee name (column B).

(ii) Injury and Illness Incident Report (OSHA Form 301): Employee name (field 1), employee address (field 2), name of physician or other health care professional (field 6), facility name and address if treatment was given away from the worksite (field 7).

(3) Do part-time, seasonal, or temporary workers count as employees in the criteria for number of employees in paragraph (a) of this section? Yes, each individual employed in the establishment at any time during the calendar year counts as one employee, including full-time, part-time, seasonal, and temporary workers.

(4) How will OSHA notify me that I must submit information from the injury and illness records as part of an individual data collection under paragraph (a)(3) of this section? OSHA will notify you by mail if you will have to submit information as part of an individual data collection under paragraph (a)(3). OSHA will also announce individual data collections through publication in the **Federal Register** and the OSHA newsletter, and announcements on the OSHA Web site. If you are an employer who must routinely submit the information, then OSHA will not notify you about your routine submittal.

(5) How often do I have to submit the information from the injury and illness records? If you are required to submit information under paragraph (a)(1) or (2) of this section, then you must submit the information once a year, by the date listed in paragraph (c) of this section of the year after the calendar year covered by the form or forms. If you are submitting information because OSHA notified you to submit information as part of an individual data collection under paragraph (a)(3) of this section, then you must submit the information as often as specified in the notification.

(6) How do I submit the information? You must submit the information electronically. OSHA will provide a secure Web site for the electronic submission of information. For individual data collections under paragraph (a)(3) of this section, OSHA will include the Web site's location in the notification for the data collection.

(7) Do I have to submit information if my establishment is partially exempt from keeping OSHA injury and illness records? If you are partially exempt from keeping injury and illness records under Sections 71–301 and/or 71–302, then you do not have to routinely submit Subarticle 3 information under paragraphs (a)(1) and (2) of this section. You will have to submit information under paragraph (a)(3) of this section if OSHA informs you in writing that it will collect injury and illness information from you. If you receive such a notification, then you must keep the injury and illness records required by this part and submit information as directed.

(8) Do I have to submit information if I am located in a State Plan State? Yes, the requirements apply to employers located in State Plan States.

(9) May an enterprise or corporate office electronically submit part 1904 records for its establishment(s)? Yes, if your enterprise or corporate office had ownership of or control over one or more establishments required to submit information under paragraph (a)(1) or (2) of this section, then the enterprise or corporate office may collect and electronically submit the information for the establishment(s).

(c) Reporting dates.

In 2017 and 2018, establishments required to submit under paragraph (a)(1) or (2) of this section must submit the required information according to the table in this paragraph (c)(1):

Submission Year	Establishments submitting under paragraph (a)(1) of this section must submit the required information from this form/these forms:	Establishments submitting under paragraph (a)(2) of this section must submit the required information from this form:	Submission deadline
2017	300A	300A	July 1, 2017
2018	300A, 300, 201	300A	July 1, 2018

Beginning in 2019, establishments that are required to submit under paragraph (a)(1) or (2) of this section will have to submit all of the required information by March 2 of the year after the calendar year covered by the form or forms (for example, by March 2, 2019, for the forms covering 2018).

Cross Reference 1904.41

HISTORY: Added by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–342. Requests from the Bureau of Labor Statistics for data.

(a) Basic requirement. If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS); or a BLS designee, you must promptly complete the form and return it following the instructions contained on the survey form.

(b) Implementation.

(1) Does every employer have to send data to the BLS? No, each year the BLS sends injury and illness survey forms to randomly selected employers and uses the information to create the Nation's occupational injury and illness statistics. In any year, some employers will receive a BLS survey form and others will not. You do not have to send injury and illness data to the BLS unless you receive a survey form.

(2) If I get a survey form from the BLS, what do I have to do? If you receive a Survey of Occupational Injuries and Illnesses Form from the Bureau of Labor Statistics (BLS), or a BLS designee, you must promptly complete the form and return it, following the instructions contained on the survey form.

(3) Do I have to respond to a BLS survey form if I am normally exempt from keeping OSHA injury and illness records? Yes, even if you are exempt from keeping injury and illness records under 71–301 to 71–303, the BLS may inform you in writing that it will be collecting injury and illness information from you in the coming year. If you receive such a letter, you must keep the injury and illness records required by 71–305 to 71–315 and make a survey report for the year covered by the survey.

(4) Do I have to answer the BLS survey form if I am located in a State-Plan State? Yes, all employers who receive a survey form must respond to the survey, even those in State-Plan States.

(Cross Reference 1904.42)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

APPENDIX A

TO SUBPART E OF SUBARTICLE 3—DESIGNATED INDUSTRIES FOR SECTION 71–341(a)(2) ANNUAL ELECTRONIC SUBMISSION OF OSHA FORM 300A SUMMARY OF WORK-RELATED INJURIES AND ILLNESSES BY ESTABLISHMENTS WITH 20 OR MORE EMPLOYEES BUT FEWER THAN 250 EMPLOYEES IN DESIGNATED INDUSTRIES

NAICS	Industry
11	Agriculture, forestry, fishing and hunting
22	Utilities
23	Construction
31–33	Manufacturing
42	Wholesale trade
4413	Automotive parts, accessories, and tire stores
4421	Furniture stores
4422	Home furnishings stores
4441	Building material and supplies dealers
4442	Lawn and garden equipment and supplies stores
4451	Grocery stores
4452	Specialty food stores
4521	Department stores
4529	Other general merchandise stores
4533	Used merchandise stores
4542	Vending machine operators
4543	Direct selling establishments
4811	Scheduled air transportation
4841	General freight trucking
4842	Specialized freight trucking
4851	Urban transit systems
4852	Interurban and rural bus transportation
4853	Taxi and limousine service
4854	School and employee bus transportation
4855	Charter bus industry
4859	Other transit and ground passenger transportation
4871	Scenic and sightseeing transportation, land
4881	Support activities for air transportation
4882	Support activities for rail transportation
4883	Support activities for water transportation
4884	Support activities for road transportation
4889	Other support activities for transportation
4911	Postal service
4921	Couriers and express delivery services
4922	Local messengers and local delivery
4931	Warehousing and storage
5152	Cable and other subscription programming
5311	Lessors of real estate
5321	Automotive equipment rental and leasing
5322	Consumer goods rental
5323	General rental centers
5617	Services to buildings and dwellings
5621	Waste collection
5622	Waste treatment and disposal
5629	Remediation and other waste management services
6219	Other ambulatory health care services
6221	General medical and surgical hospitals
6222	Psychiatric and substance abuse hospitals
6223	Specialty (except psychiatric and substance abuse) hospitals

6231	Nursing care facilities
6232	Residential mental retardation, mental health and substance abuse facilities
6233	Community care facilities for the elderly
6239	Other residential care facilities
6242	Community food and housing, and emergency and other relief service
6243	Vocational rehabilitation services
7111	Performing arts companies
7112	Spectator sports
7121	Museums, historical sites, and similar institutions
7131	Amusement parks and arcades
7132	Gambling industries
7211	Traveler accommodation
7212	RV (recreational vehicle) parks and recreational camps
7213	Rooming and boarding houses
7223	Special food services
8113	Commercial and industrial machinery and equipment (except automotive and electronic) repair and maintenance
8123	Dry-cleaning and laundry services

Cross Reference Appendix A to Subpart E of Part 1904

HISTORY: Added by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

Subpart F
Transition From the Former Rule

71–343. Summary and posting of the 2001 data.

(a) Basic requirement. If you were required to keep OSHA 200 Logs in 2001, you must post a 2001 annual summary from the OSHA 200 Log of occupational injuries and illnesses for each establishment.

(b) Implementation.

(1) What do I have to include in the summary?

(i) You must include a copy of the totals from the 2001 OSHA 200 Log and the following information from that form:

(A) The calendar year covered;

(B) Your company name;

(C) The name and address of the establishment; and

(D) The certification signature, title and date.

(ii) If no injuries or illnesses occurred at your establishment in 2001, you must enter zeros on the total line and post the 2001 summary.

(2) When am I required to summarize and post the 2001 information?

(i) You must complete the summary by February 1, 2002; and

(ii) You must post a copy of the summary in each establishment in a conspicuous place or places where notices to employees are customarily posted. You must ensure that the summary is not altered, defaced or covered by other material.

(3) You must post the 2001 summary from February 1, 2002 to March 1, 2002.

(Cross Reference 1904.43)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

71–344. Retention and updating of old forms.

You must save your copies of the OSHA 200 and 101 forms for five years following the year to which they relate and continue to provide access to the data as though these forms were the OSHA 300 and 301 forms. You are not required to update your old 200 and 101 forms.

(Cross Reference 1904.44)

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

Subpart G
Definitions

71–346. Definitions.

The Act. The Act means the Occupational Safety and Health Act of Section 41–15–210 et. seq., Code of Laws of South Carolina, 1976. The definitions contained in Regulations Chapter 71, Article 1, Code of Laws of South Carolina and related interpretations apply to such terms when used in this Subarticle 3.

Establishment. An establishment is a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary services; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

(1) Can one business location include two or more establishments? Normally, one business location has only one establishment. Under limited conditions, the employer may consider two or more separate businesses that share a single location to be separate establishments. An employer may divide one location into two or more establishments only when:

(i) Each of the establishments represents a distinctly separate business;

(ii) Each business is engaged in a different economic activity;

(iii) No one industry description in the Standard Industrial Classification Manual (1987) applies to the joint activities of the establishments; and

(iv) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, the employer may consider each business to be a separate establishment.

(2) Can an establishment include more than one physical location? Yes, but only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

(i) The employer operates the locations as a single business operation under common management;

(ii) The locations are all located in close proximity to each other; and

(iii) The employer keeps one set of business records for the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(3) If an employee telecommutes from home, is his or her home considered a separated establishment? No, for employees who telecommute from home, the employee's home is not a business establishment and a separate 300 Log is not required. Employees who telecommute must be linked to one of your establishments under 71–330(b)(3).

(4) Is the definition of establishment any different for the State of South Carolina and any political subdivision thereof [public sector]? Yes, for public sector only, an establishment is either (a) a single location where a specific governmental function is performed; or (b) that location which is the lowest level where attendance or payroll records are kept for a group of employees who perform the same governmental functions or who are in the same specific organizational unit, even though the activities are carried on at more than a single physical location.

Injury or illness. An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, a skin disease, respiratory disorder, or poisoning. (Note: Injuries

and illness are recordable only if they are new, work-related cases that meet one or more of the Subarticle 3 recording criteria.)

Physician or other licensed health care professional. A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows him or her to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

You. "You" means an employer as defined in Regulations Chapter 71, Article 1, Code of Laws of South Carolina, 1976.

HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002. Amended by SCSR 42–5 Doc. No. 4802, eff May 25, 2018.

SUBARTICLE 4
ENFORCEMENT OF VIOLATIONS

Editor's Note

A. This subarticle became effective on the 3rd day of January, 1979, and shall apply to all matters in which the citation, notice of proposed penalty, or notice of failure to correct violation is based, or employee protest is received, as the case may be, on or after the 2nd day of January, 1979.

B. Deletion of original regulations 71-410 and 71-411 became effective on June 28, 1985.

C. The amendments to regulations 71-401C, 71-402D, 71-404B, 71-404CC, 71-405C, 71-406A, 71-407, 71-408, and 71-409C, and deletions of Sections 71-400T, 71-400U, 71-400V, 71-405F, and 71-406C became effective on January 9, 1987.

Chapter 71 was amended by State Register Volume 19, Issue No. 3, effective March 24, 1995, which provides:

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

"A. In Subarticle 4 [Enforcement of Violations]:

"Minimum standard for Citations; notices of de minimis violations; policy regarding employee rescue activities shall be 71-401 as amended (Cross reference: Section 1903.14) in Federal Register, volume 59, number 247, pages 66612 and 66613, dated December 27, 1994."

Chapter 71, Article 1, Subarticle 4, was amended by State Register Volume 21, Issue No. 7, effective July 25, 1997, which provides:

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

"In Subarticle 4 (Enforcement of Violations):

"Minimum standard for Abatement Verification shall be 71–410 with associated revisions to 71–400 as amended in Federal Register, volume 62, number 61, pages 15337 through 15340, dated March 31, 1997.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Public Information Office at (803) 896–4380."

71–400. Definitions.

As used in this Subarticle, unless the context clearly requires otherwise

A. "Abatement" means corrections of violations issued in citation package.

B. "Act" means Act 379, South Carolina Acts and Joint Resolutions, 1971, as amended, and State Laws enacted by the South Carolina General Assembly.

C. "Administrator" means that person in the South Carolina Department of Labor, Licensing and Regulation, who is designated by the Director as responsible for the supervision of the activities of the Occupational Safety and Health Division.

D. "Affected Employee" shall mean an employee of a cited employer who is exposed to the alleged hazard described in the citation, as a result of his employment.

E. "Agency" means the South Carolina Department of Labor, Licensing and Regulation.

F. "Authorized Employee Representative" means a labor organization which has a collective bargaining relationship with the cited employer and which represents affected employees.

G. "Citation" means a written agency determination issued by the Director or his designated representative pursuant to Section 41–15–280, Code of Laws, State of South Carolina, 1976, as amended. For the purpose of this section, the word "citation" includes "amended citation".

H. "Compliance Manager" means that person in the Department of Labor, Licensing and Regulation, State of South Carolina, who is designated by the Administrator as responsible for inspections made pursuant to the State's Occupational Safety and Health Laws including, but not limited to, the issuance of citations and assessment of penalties.

I. "Contest Period" means the thirty day period that begins once the citation is received by the employer.

J. "Designee" means the person or persons acting on behalf of one or more of the following: Director, Administrator, Compliance Officer, or Informal Conference Hearing Officer, having the same authority and responsibility as the one for whom he is acting.

K. "Day" means calendar day.

L. "Director" means the Director of the South Carolina Department of Labor, Licensing and Regulation.

M. "Employee" means any person employed by an individual, partnership, joint venture, cooperative association or corporation doing business in the State, or by the State of South Carolina or any political subdivision thereof.

N. "Employer" means any individual, partnership, joint venture, cooperative association or corporation doing business in the State and the State of South Carolina and any political subdivision thereof which employs one (1) or more persons to perform work within the State of South Carolina.

O. "Informal Conference" means a conference held to discuss any issues raised by an inspection, citation, notice of penalty, and notification of failure to correct violation. No informal conference or request for an informal conference shall operate as a stay of the thirty (30) day period for filing a request for a contested case hearing to the ALC.

P. "Informal Conference Hearing Officer" means the designee of the Administrator given authority to hold informal conferences.

Q. "Informal Settlement Agreement" means the product of an agreement between both parties, which includes the parameters of such settlement and signatures of both parties. This agreement serves as a final order in lieu of contest, which the employer waives by entry into this agreement.

R. "Notification of Penalty" means a written agency determination issued by the Director or his designee to an employer to notify the employer of penalties assessed under Section 41–15–320, Code of Laws, State of South Carolina, 1976, as amended.

S. "OSH Compliance Officer" means any individual commissioned by the Director to enforce safety and health statutes, rules and regulations.

T. "Party" means any individual, partnership, joint venture, cooperative association, corporation, State of South Carolina or any political subdivision thereof who shall have a vested interest to participate in a hearing conducted in accordance with this subarticle.

U. "Person" means any individual, partnership, joint venture, cooperative association, corporation, organization of employees, or the State of South Carolina or any political subdivision thereof.

V. "Representative" means any person, including an authorized employee representative, authorized by a party, survivor, or intervener to represent him in a proceeding.

W. "Rules and Regulations" means any rules and regulations promulgated and adopted by the Department.

X. "State" means the State of South Carolina.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–401. Citation; Notice of De Minimis Violation.

A. The Compliance Manager or his designee shall review the report of inspection of each OSH Compliance Officer. If the report indicates a violation of the state statutes or rules and regulations, there shall be issued to each employer, by certified mail or by personal service, a citation(s). Any citation shall be issued with reasonable promptness after the termination of the inspection. No citation shall be issued after the expiration of six (6) months following the occurrence of any violation. Citations shall detail the conditions and circumstances of the violation, and refer to applicable statutes,

rules and regulations or order alleged to have been violated. The citation shall also fix a reasonable time for abatement of the violation(s). Where a citation is issued as a result of a request for inspection under Subarticle 5, R. 71–508, copies of the citation shall also be provided to the employee or employee representative who made such request. If appropriate, a citation will be issued to an employer even where the employer abates immediately.

B. Notice of De Minimis Violation. The Compliance Manager or his designee shall review the report of inspection of each OSH Compliance Officer. If the report indicates a violation of the state statutes or rules and regulations which have no direct or immediate relationship to safety or health, the Compliance Manager may issue a notice of de minimis violation if he shall determine that such notice shall be beneficial to the health and safety of employees. Such notice of de minimis violation shall be in the form of a recommendation only and may not be contested.

C. While the issuance of a citation is the agency's determination, it does not constitute a determination that a violation of state statutes or rules and regulations has occurred, but it is an allegation that such may have occurred, unless there is a failure to contest as provided for in accordance with Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court, or, if contested, unless the violation is determined to have existed by a final order of the Administrative Law Court or by a final adjudication in the courts of this State.

D. No citation may be issued to an employer because of a rescue activity undertaken by an employee of that employer with respect to an individual in imminent danger unless:

(1)(a) such employee is designated or assigned by the employer to have responsibility to perform or assist in rescue operations; and

(b) the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

(2)(a) such employee is directed by the employer to perform rescue activities in the course of carrying out the employee's job duties; and

(b) the employer fails to provide protection of the safety and health of such employee, including failing to provide appropriate training and rescue equipment; or

(3)(a) such employee is employed in a workplace that requires the employee to carry out duties that are directly related to a workplace operation where the likelihood of life-threatening accidents is foreseeable, such a workplace operation where employees are located in confined spaces or trenches; handle hazardous waste, respond to emergency situations, perform evacuations, or perform construction over water; and

(b) such an employee has not been designated or assigned to perform or assist in rescue operations and voluntarily elects to rescue such an individual; and

(c) the employer has failed to instruct employees not designated or assigned to perform or assist in rescue operations of the arrangements for rescue, not to attempt rescue, and of the hazards of attempting rescue without adequate training or equipment.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–402. Penalty.

A. After, or concurrent with, the issuance of a citation, and within a reasonable time of the inspection, the Compliance Manager, or his designee, shall notify the employer by certified mail or by personal service of the penalty under Section 41–15–300, Code of Laws of South Carolina, 1976, as amended, or that no penalties are assessed.

B. The Compliance Manager or his designee shall determine the amount of any penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations in accordance with Section 41–15–320, Code of Laws of South Carolina, 1976, as amended.

C. Appropriate penalties may be assessed with respect to alleged violations even though after being informed of such an alleged violation by the OSH Compliance Officer, the employer immediately

abates or initiates steps to abate such violation. A penalty shall not be assessed for de minimis violations.

D. While the issuance of an assessed penalty is the agency's determination, it does not constitute an obligation unless there is a failure to contest the assessed penalty as provided in accordance with Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court, or, if contested, unless the assessed penalty is determined to be an obligation under Section 41–15–320, Code of Laws of South Carolina, 1976, as amended, by an Order of the Administrative Law Court or upon final adjudication in the courts of this State.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–403. Posting of Citation.

A. Upon receipt of a citation under the Act, the employer shall immediately post such citation, or a copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as provided below. Where, because of the nature of the employer's operations, it is not practical to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. The employer shall take steps to ensure that the citation is not altered, defaced, or covered by other material. Notices of de minimis violations need not be posted.

B. Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for three working days, whichever is later. The filing by the employer of a request for a contested case hearing under R. 71–407 and R.71–408 shall not affect his posting responsibility under these sections.

C. Any employer failing to comply with the provisions of paragraphs A and B of this regulation shall be subject to citation and penalty in accordance with the provisions of Section 41–15–320, Code of Laws of South Carolina, 1976, as amended.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–404. Failure to Correct Violation for Which Citation Has Been Issued.

A. If any subsequent inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the Compliance Manager or his designee shall notify the employer by certified mail or by personal service of such failure and of the penalty assessed under Section 41–15–320, South Carolina Code of Laws, 1976, as amended, by reason of such failure, and of a later date after which an additional penalty may be assessed for continued failure to correct the violation.

B. Any employer receiving a notification of penalties for failure to abate violations and notification of penalty may notify the Administrator, in writing, that he intends to contest such citation or notification of penalty. Such right to contest notification of failure to correct a violation or assessed penalty may be made by the employer, by notifying the Administrator, in writing. Such request for a contested case hearing shall comply with Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–405. Petition for Modification of Abatement.

A. Filing. If the employer has made a good faith effort to comply with the abatement period, but has not been able to do so by the prescribed date because of factors beyond his control, he may file a petition for modification of abatement. The petition must be filed with the Compliance Manager or his designee no later than the end of the next working day following the date on which abatement was to have been completed. The petition shall state why the abatement cannot be completed within the prescribed time, the steps taken to achieve compliance, and what interim steps are being taken to protect the employees from the cited hazard. Affected employees and their authorized representative (if any) must be also notified in writing of the petition by posting of the petition at the same location the citation is posted, and the petition shall remain posted for a period of ten (10) days.

B. Incomplete Petition for Modification of Abatement. Should a petition for modification of abatement be submitted to the Compliance Manager, or his designee, which does not meet the requirements of this regulation, the Compliance Manager, or his designee, shall immediately notify the employer of the deficiency and may allow up to an additional five (5) days to meet the requirements.

C. Objections to Petition for Modification of Abatement. Affected employees or their authorized representative may file an objection in writing to a petition for modification of abatement with the Compliance Manager. Failure to file such objection within ten (10) days of the date of posting of such petition or of service upon an authorized representative shall constitute a waiver of any further right to object to the petition unless good cause is shown for such failure.

D. Decision. The Compliance Manager or his designee may issue a decision, served by certified mail, after ten (10) days. The decision of the Compliance Manager or his designee to accept or deny the petition for modification of abatement may be contested by the employer or affected employee; or within thirty (30) days from receipt of the decision, it may be contested to the Administrative Law Court.

E. Service. Unless otherwise ordered, service to the Department may be accomplished by postage prepaid first class mail or by personal delivery. Service is deemed effective at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery). Service and notice to employees represented by an authorized employee representative shall be deemed accomplished in the manner prescribed in paragraph B of this regulation

F. Failure to File Timely. Where the employer fails to file with the Compliance Manager or his designee, a petition for modification of abatement within the time prescribed in paragraph A of this regulation, the abatement period shall be deemed a final order of the Compliance Manager or his designee unless good cause is shown for such failure. Where any filing required by this regulation is made later than the period specified herein, the Compliance Manager or his designee may consider the merits of the objection or petition if he finds that there was a good cause for such delay and that such delay was not excessive. If the Compliance Manager or his designee shall determine that there was not good cause or that the delay was excessive, he shall recommend the denial of and thereby object to the petition for modification of abatement in accordance with paragraph D of this regulation.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–406. Informal Conference.

A. Authority. At the request of either the employer, an affected employee, or representative of employees, the Informal Conference Hearing Officer or his designee may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of penalty, or notification of failure to abate violation. The settlement of any issue at such conference shall be subject to these rules and regulations of procedure. If the conference is requested by the employer, an affected employee or his representative shall be afforded an opportunity to participate, at the discretion of the Administrator or his designee. Any party may be represented by legal counsel. No such conference or request for conference shall operate as a stay of the thirty (30) day period for filing a request for a contested case hearing, and no such conference or request for conference will be held or accepted subsequent to receipt of a request for a contested case hearing as defined in Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court.

B. Informal Conference Procedures--If the request for a contested case hearing is not filed pursuant to subsection A., the Informal Conference procedure is as follows:

1. Requesting Informal Conference. Request for an informal conference may be made orally or in writing to the Informal Conference Hearing Officer.

2. Location. Informal conferences shall be conducted by the Informal Conference Hearing Officer and held at the South Carolina Department of Labor, Licensing, and Regulation. At the request of an employer, an alternate site may be designated upon approval by the Administrator.

3. Time. Informal conferences will be scheduled upon request. All conferences will be held and decisions rendered within the thirty (30) day contest period.

4. Decision. A decision of the Informal Conference Hearing Officer or his designee will be made at the close of the informal conference and communicated promptly to the parties as close to the informal conference as possible and within the thirty (30) day contest period.

C. Informal Settlement Agreement. Informal Settlement Agreement is the product of an agreement between both parties, which include the parameters of such settlement and signatures of both parties. This agreement serves as a final order in lieu of contest, which the employer waives by entry into this agreement.

D. The Informal Conference Hearing Officer. The Informal Conference Hearing Officer may enter into a settlement agreement which amends any previous citations, penalties, and abatement dates. Such settlement agreements will be in writing, signed by both parties, and within the thirty (30) day contest period.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–407. Employer or Employee Contest.

A. Any employer to whom a citation or notice of penalty has been issued may request a contested case hearing in which it does contest such citation, proposed penalty, abatement date, or any combination thereof in accordance with the rules of procedure of Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court. The request for a contested case hearing shall be filed within thirty (30) days after the receipt of the citation issued by the Compliance Manager. The employer shall provide a copy of the filed request for a contested case hearing to the Compliance Manager.

B. Any employee or any employee representative of an employer to whom a citation or notice of penalty has been issued, may request for a contested case hearing in which it does contest such abatement date in accordance with the rules of procedure of Articles 3 and 5 of Chapter 23, Title 1 and the rules of the Administrative Law Court. The employee or any employee representative of an employer shall provide a copy of the filed request for a contested hearing to the Administrator.

C. Where the employer, employee or employee representative fails to file a request for a contested case hearing pursuant to the rules of procedure of the Administrative Law Court, the citation and penalty shall be deemed a final order not subject to administrative review.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–408. Request for a Contested Case Hearing; Posting.

A. Request for a contested case hearing; posting.

1. In the event that there are any affected employees who are not represented by an authorized employee representative, the employer shall, immediately upon receipt of notice of the docketing of the request for a contested case hearing, post where the citation is required to be posted, a copy of the request for a contested case hearing and a notice informing such affected employees of their right to party status and of the availability of all pleadings for inspection and copying at reasonable times.

2. The authorized employee representative, if any, shall be served with a copy of the request for a request for a contested case hearing.

3. Where a request for a contested case hearing is filed by an affected employee who is not represented by an authorized employee representative and there are other affected employees who are represented by an authorized employee representative, the unrepresented employee shall serve a copy of his notice on the authorized employee representative and shall file proof of such service in a manner prescribed in subsection D.1. of this section.

4. Where a request for a contested case hearing is filed by an affected employee or an authorized employee representative, a copy of the request for a contested case hearing and response filed in support thereof shall be provided to the employer for posting in the manner prescribed in paragraph A.1. of this rule.

5. An authorized employee representative who files a request for a contested case hearing shall be responsible for serving any other authorized employee representative whose members are affected employees in a manner prescribed in subsection D.1. of this section.

B. Notice of Hearing.

1. A copy of the notice of the hearing to be held before the Administrative Law Court shall be served by the employer on affected employees who are not represented by an authorized employee representative by posting a copy of the notice of such hearing at or near the place where the citation is required to be posted.

2. A copy of the notice of the hearing to be held before the Administrative Law Court shall be served by the employer on the authorized employee representative of affected employees in the manner prescribed in paragraph D.1 of this rule, if the employer has not been informed that the authorized employee representative has entered an appearance as of the date such notice is received by the employer.

C. Other Documents.

1. At the time of filing pleadings or other documents, a copy thereof shall be served by the filing party or intervenor on every other party or intervenor.

2. Service upon a party or intervenor who has appeared through a representative shall be made only upon such representative.

D. Proof of Service.

1. Unless otherwise ordered, service may be accomplished by postage pre-paid first class mail or by personal delivery. Service is deemed effective at the time of mailing (if by mail) or at the time of personal delivery (if by personal delivery).

2. Proof of service shall be accomplished by a written statement which sets forth the date and manner of service. Such statement shall be filed with the pleading or document.

3. Where service is accomplished by posting, proof of such posting shall be filed not later than the first working day following the posting.

4. Where posting is required by this section, unless otherwise specified, such posting shall be maintained until the commencement of the hearing or until earlier disposition.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–409. Failure to Contest.

Where the employer, employee or employee representative fails to file a request for a contested case hearing pursuant to the rules of procedure of the Administrative Law Court, the citation and penalty shall be deemed a final order of the Director not subject to administrative review unless good cause is shown for such failure. Where the filing of request for a contested case hearing is made later than the period specified, the Director may nevertheless waive his objection to the late contest, if he finds that there was good cause for such delay and that the delay was not excessive.

HISTORY: Amended by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–410. Withdrawal, Modification or Amendment to Citation and Penalty.

A. The Occupational Safety and Health Division of the South Carolina Department of Labor, Licensing and Regulation may withdraw, modify or amend a citation and/or penalty during the thirty (30) day contest period.

B. After the expiration of the thirty (30) day period or after a request for a contested case hearing has been filed and provided to the Administrator or his designee, the Administrator may on his own motion withdraw, modify or amend a citation and/or penalty, provided the same does not unduly prejudice the position of any party.

C. After the request for contested case hearing is filed and received by the Administrative Law Court, any action to withdraw, modify, or amend a citation or penalty shall be according to the rules of the Administrative Law Court.

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009; State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

71–411. Abatement Verification.

PURPOSE: OSHA's inspections are intended to result in the abatement of violations of the South Carolina Occupational Safety and Health Act. This section sets forth the procedures OSHA will use to ensure abatement. These procedures are tailored to the nature of the violation and the employer's abatement actions.

A. Scope and application. This section applies to employers who receive a citation for a violation of the Occupational Safety and Health Act.

B. Abatement certification.

(1) Within 10 calendar days after the abatement date, the employer must certify to OSHA (The Agency) that each cited violation has been abated, except as provided in paragraph (B)(2) of this section.

(2) The employer is not required to certify abatement if the OSHA Compliance Officer, during the on-site portion of the inspection:

(a) Observes, within 24 hours after a violation is identified, that abatement has occurred; and

(b) Notes in the citation that abatement has occurred.

(3) The employer's certification that abatement is complete must include, for each cited violation, in addition to the information required by paragraph (G) of this section that affected employees and their representatives have been informed of the abatement. Note to paragraph (B): Appendix A contains a sample abatement certification letter.

C. Abatement documentation.

(1) The employer must submit to the Agency, along with the information on abatement certification required by paragraph (B)(3) of this section, documents demonstrating that abatement is complete for each willful or repeat violation and for any serious violation for which the Agency indicates in the citation that such abatement documentation is required.

(2) Documents demonstrating that abatement is complete may include, but are not limited to, evidence of the purchase or repair of equipment, photographic or video evidence of abatement, or other written records.

D. Abatement plans.

(1) The Agency may require an employer to submit an abatement plan for each cited violation (except an other-than-serious violation) when the time permitted for abatement is more than ninety (90) calendar days. If an abatement plan is required, the citations must so indicate.

(2) The employer must submit an abatement plan for each cited violation within twenty five (25) calendar days from the final order date when the citation indicates that such a plan is required. The abatement plan must identify the violation and the steps to be taken to achieve abatement, including a schedule for completing abatement and, where necessary, how employees will be protected from exposure to the violative condition in the interim until abatement is complete. Note to paragraph (D): Appendix B contains a sample abatement plan form.

E. Progress reports.

(1) An employer who is required to submit an abatement plan may also be required to submit periodic progress reports for each cited violation. The citation must indicate:

(a) That periodic progress reports are required and the citation items for which they are required;

(b) The date on which an initial progress report must be submitted, which may be no sooner than thirty (30) calendar days after submission of an abatement plan;

(c) Whether additional progress reports are required;

(d) The date(s) on which additional progress reports must be submitted.

(2) For each violation, the progress report must identify, in a single sentence if possible, the action taken to achieve abatement and the date the action was taken. Note to paragraph (E): Appendix B contains a sample progress report form.

F. Employee notification.

(1) The employer must inform affected employees and their representative(s) about abatement activities covered by this section by posting a copy of each document submitted to the Agency or a summary of the document near the place where the violation occurred.

(2) Where such posting does not effectively inform employees and their representative(s) about abatement activities (for example, for employers who have mobile work operations), the employer must:

(a) Post each document or a summary of the document in a location where it will be readily observable by affected employees and their representatives; or

(b) Take other steps to communicate fully to affected employees and their representatives about abatement activities.

(3) The employer must inform employees and their representatives of their right to examine and copy all abatement documents submitted to the Agency.

(a) An employee or an employee representative must submit a request to examine and copy abatement documents within three (3) working days of receiving notice that the documents have been submitted.

(b) The employer must comply with an employee's or employee representative's request to examine and copy abatement documents within five (5) working days of receiving the request.

(4) The employer must ensure that notice to employees and employee representatives is provided at the same time or before the information is provided to the Agency and that abatement documents are:

(a) Not altered, defaced, or covered by other material; and

(b) Remain posted for three (3) working days after submission to the Agency.

G. Transmitting abatement documents.

(1) The employer must include, in each submission required by this section, the following information:

(a) The employer's name and address;

(b) The optional report number to which the submission relates;

(c) The citation and item numbers to which the submission relates;

(d) A statement that the information submitted is accurate; and

(e) The signature of the employer or the employer's authorized representative.

(2) The date of postmark is the date of submission for mailed documents. For documents transmitted by other means, the date the Agency receives the document is the date of submission.

H. Movable equipment.

(1) For serious, repeat, and willful violations involving movable equipment, the employer must attach a warning tag or a copy of the citation to the operating controls or to the cited component of equipment that is moved within the work site or between work sites. Note to paragraph (H)(1): Attaching a copy of the citation to the equipment is deemed by OSHA to meet the tagging requirement of paragraph (H)(1) of this section as well as the posting requirement of 71–403 in this subarticle.

(2) The employer must use a warning tag that properly warns employees about the nature of the violation involving the equipment and identifies the location of the citation issued. Note to paragraph (H)(2): Non-Mandatory Appendix C contains a sample tag that employers may use to meet this requirement.

(3) If the violation has not already been abated, a warning tag or copy of the citation must be attached to the equipment.

(a) For hand-held equipment, immediately after the employer receives the citation; or

(b) For non-hand-held equipment, prior to moving the equipment within or between work sites.

(4) For the construction industry, a tag that is designed and used in accordance with 29 CFR 1926.20(b)(3) and 29 CFR 1926.200(h) is deemed by OSHA to meet the requirements of this section when the information required by paragraph (H)(2) is included on the tag.

(5) The employer must assure that the tag or copy of the citation attached to movable equipment is not altered, defaced, or covered by other material.

(6) The employer must assure that the tag or copy of the citation attached to movable equipment remains until:

(a) The violation has been abated and all abatement verification documents required by this regulation have been submitted to the Agency;

(b) The cited equipment has been permanently removed from service or is no longer within the employer's control; or

(c) The Court issues a final order vacating the citation.

Appendices Abatement Verification

Note: Appendices A through C provide information and non-mandatory guidelines to assist employers and employees in complying with the appropriate requirements of this section.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

APPENDIX A:
Sample Abatement Certification Letter (Non-mandatory)

(Name), Administrator

S.C. Department of Labor, Licensing & Regulation OSHA

Address of the Area Office (on the citation)

[Company's Name]

[Company's Address]

The hazard referenced in Optional Report No. (insert 6-digit #) for violation identified as: Citation [insert #] and item [insert #] was corrected on [insert date] by:

_____

_____

Citation [insert #] and item [insert #] was corrected on [insert date] by:

_____

_____

Citation [insert #] and item [insert #] was corrected on [insert date] by:

_____

_____

Citation [insert #] and item [insert #] was corrected on [insert date] by:

_____

_____

Citation [insert #] and item [insert #] was corrected on [insert date] by:

_____

_____

I attest that the information contained in this document is accurate.

_____

Signature

_____

Typed or Printed Name

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009; Amended by State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

APPENDIX B:
Sample Abatement Plan or Progress Report (Non-mandatory)

(Name), Administrator

S.C. Department of Labor, Licensing & Regulation - OSHA

Address of Area Office (on the citation)

[Company's Name]

[Company's Address]

Check one:

Abatement Plan [ ]

Progress Report [ ]

Optional Report Number_____

Page _____of_____

Citation Number(s)*_____

Item Number(s)*_____

Action	Proposed Completion Date (for Abatement Plans only)	Completion Date (for Progress reports only)
1._____	_____	_____
2._____	_____	_____
3._____	_____	_____
4._____	_____	_____
5._____	_____	_____
6._____	_____	_____
7._____	_____	_____

Date required for final abatement:_____

I attest that the information contained in this document is accurate.

_____

Signature

_____

Typed or Printed Name

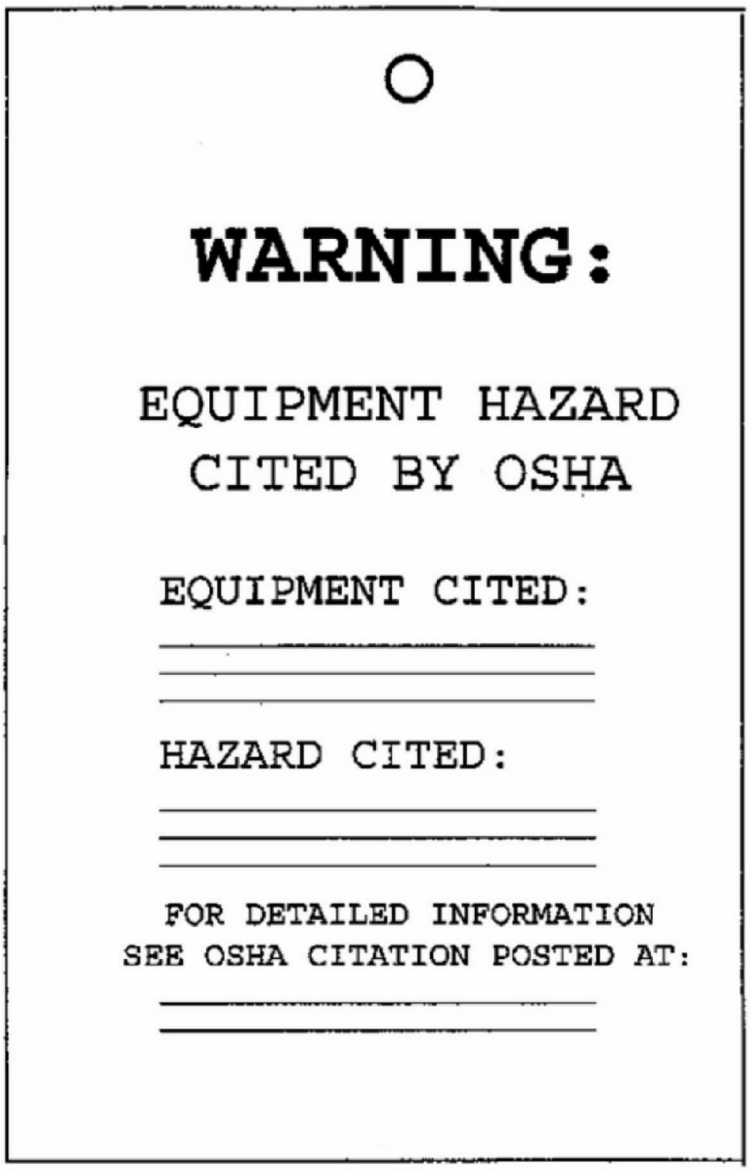
Name of primary point of contact for questions: (optional)

Telephone Number: _____

*Abatement plans or progress reports for more than one citation item may be combined in a single abatement plan or progress report if the abatement actions, proposed completion dates, and actual completion dates (for progress reports only) are the same for each of the citation items.

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009; Amended by State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

APPENDIX C:
Sample Warning Tag (Nonmandatory)



BACKGROUND COLOR—ORANGE
MESSAGE COLOR—BLACK

HISTORY: Added by State Register Volume 33, Issue No. 6, eff June 26, 2009; Amended by State Register Volume 38, Issue No. 6, Doc. No. 4446, eff June 27, 2014.

SUBARTICLE 5
INSPECTIONS

Editor's Note

This subarticle became effective on the first day of January, 1972.

71–500. Purpose and Scope.

Section 41-15-210, South Carolina Code of Laws, provides for the promulgation by the Commissioner of Labor of Occupational Safety and Health Standards covering employment and places of employment in businesses within the State of South Carolina. It further authorizes the Commissioner of Labor to enforce these standards through assessment of penalties for violations. The law also authorizes the Commissioner of Labor to conduct inspections and to question employers and employees. The purpose of this subarticle is to provide procedures and policies for the enforcement of the inspections, investigations, issuance of citations and proposed assessments of penalty provisions of the state laws and the rules and regulations of the Commissioner.

71–501. Definitions.

As used in this subarticle, unless the context clearly requires otherwise:

A. "State" means the State of South Carolina.

B. "Department" means the Department of Labor, State of South Carolina.

C. "Commissioner" means the Commissioner, Department of Labor, State of South Carolina.

D. "Employer" means any individual, partnership, joint venture, cooperative association or corporation licensed to do business in the State, and the State of South Carolina and any political subdivision thereof.

E. "Employee" means any person employed by an individual, partnership, joint venture, cooperative association or corporation licensed to do business in the State, or the State of South Carolina or any political subdivision thereof.

F. "Safety Specialist" means any individual commissioned by the Department of Labor, the State of South Carolina or any political subdivision thereof to enforce safety and health laws, rules and regulations.

G. "Person" means any individual, partnership, joint venture, cooperative association, corporation, organization of employees, the State of South Carolina and any political subdivision thereof.

H. "Party" means any individual, partnership, joint venture, cooperative association, corporation, the State of South Carolina and any political subdivision thereof who shall have a vested interest to participate in a hearing conducted in accordance with this subarticle.

I. "Affected Employee" means any employee who would be affected by the grant or denial of any petition.

J. "Standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment or places of employment.

K. [Reserved]

L. [Reserved]

M. [Reserved]

N. "Lost Workdays" is the number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

O. "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas and sanitary service; and similar operations, the establishment is represented by main or branch offices, terminals, stations, etc. that either supervise such activities or are the base from which personnel carry out these activities.

P. "Director of Inspection" means that person in the Department of Labor, State of South Carolina, who is responsible for inspections made pursuant to the state's Occupational Safety and Health Laws and, that person in other state agencies having the responsibility of directing the inspection force of that agency which has a contractual agreement with the Department of Labor, State of South Carolina, to enforce the state's Occupational Safety and Health Laws.

HISTORY: Amended by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.

71–502. Posting of Notice.

A. Every employer subject to the occupational safety and health laws rules and regulations of the State of South Carolina shall post a conspicuous notice to be furnished by the State of South Carolina in a prominent place in each factory, plant, establishment, construction site or other area, workplace or environment where work is performed by an employee informing him of the protections and obligations provided for in the laws, rules and regulations, and that further information concerning the such laws, rules and regulations is available at the Department of Labor, State of South Carolina.

B. An employer failing to comply with the provisions of this regulation may be subject to citation and penalty, as provided in Section 41-15-280 and 41-15-320, South Carolina Code of Laws.

71–503. Inspections.

A. As provided for in Section 41-15-260, South Carolina Code of Laws, the Commissioner, his representative, or Safety Specialist, may examine and inspect at reasonable hours, as often as practicable, all places, sites or areas where employment comes under the jurisdiction of the Commissioner for compliance with any and all rules and regulations promulgated under this Act.

B. The Commissioner of Labor may subpoena witnesses, take and preserve testimony, examine witnesses, administer oaths and enter any place, site or areas where employment comes under the jurisdiction of the Commissioner and interrogate any person employed therein or connected therewith or the proper officers of a corporation or employer, or he may file a written or printed list of interrogatories and require full and complete answers to them to be returned under oath within ten (10) days of the receipt of such list.

71–504. Advance Notice of Inspections.

A. No advance notice shall be given with regard to inspections except as shall be authorized by the Commissioner.

(1) Advance notice may be given in the case of apparent imminent danger to enable the employer to abate the danger as quickly as possible;

(2) Where the inspection will be conducted after regular business hours or in circumstances where special preparations are necessary for an inspection;

(3) Where reasonable necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid in the inspection; and

(4) In other circumstances where the Commissioner in consultation with the Safety Specialist, determines that the giving of advance notice would enhance the probability of an effective and thorough inspection. Except in unusual circumstances, no notice of inspection shall be given more than 24 hours before an inspection is scheduled to take place.

B. Any employee of the Department of Labor or other agency operating under contract with the Department of Labor in the implementation of the State Plan who gives unauthorized advance notice of an inspection will be disciplined by the administrative head of the agency after a hearing before the Commissioner of Labor. Such discipline may be as severe as discharge of duty.

71–505. Conduct of Inspections.

A. Subject to R. 71-503, inspections shall take place at such times and in such places of employment as the Commissioner may direct. Where appropriate reinspection may be directed to clarify questions, resolve objections or to ascertain if an employer has complied with an agreement or order to abate, or notice or abatement of a hazardous condition. Safety Specialists when making such inspections, shall present their credentials to the highest official of the employer available, explain the nature and purpose of the inspection, and indicate generally the scope of the inspection, those records he wishes

to review and employees he wishes to question. However, designation of records or persons at this point shall not preclude access to additional records or questioning of additional persons if required in the opinion of the Safety Specialist.

B. The Safety Specialist or a designated representative of the Commissioner shall have authority to take photographs and samples, employ other reasonable investigative techniques, and to question privately any employer, owner, operator, agent, or employee of an establishment.

71–506. Representatives of Employers and Employees.

A. The Safety Specialist shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by employees shall be afforded an opportunity to accompany a Safety Specialist during any inspection provided for under this subarticle for the purpose of aiding such inspections. In places of employment where groups of employees are represented by different representatives, a different employee representative for different phases of the inspection is acceptable to the extent it does not interfere with the inspection. In the interest of affording all employees an opportunity to be represented, more than one representative may accompany the Safety Specialist during any phase of the inspection, if the Safety Specialist so directs.

B. The Safety Specialist is authorized to deny the right of accompaniment under this regulation to any person whose conduct interferes with a fair and orderly investigation or as required with respect to security matters or trade secrets.

C. The provisions of R. 71-505 and R. 71-506 shall be implemented so as to avoid any undue and unnecessary disruption of the normal operations of the employer's plant.

D. A representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Commissioner, his assistant, or inspector, within limits of paragraphs A, B, and C above, during the physical inspection of any workplace for the purpose of aiding such inspection. No employee shall suffer any loss of wages or other benefits which would normally accrue to him because of his participation in the walk-around inspection. Such violations of this regulation shall be reported to the Commissioner of Labor. Where there is no authorized representative, the Commissioner, his assistant, or inspector shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

71–507. Consultation with Employees.

During an inspection any employee shall be afforded a reasonable opportunity to consult the Safety Specialist in private. In those cases where there is no authorized employee representative, the Safety Specialist shall consult with a reasonable number of employees concerning matters of safety and health in the workplace. In other circumstances, the Safety Specialist may consult with a reasonable number of employees in each workplace and work area concerning matters of occupational safety and health to the extent necessary for the conduct of an effective investigation. Prior to, during or subsequent to any inspection of a workplace, any employee or representative of employees may notify the Commissioner or Safety Specialist of any violation of the laws, rules or regulations which they have reason to believe exists in such workplace.

71–508. Special Investigations.

Any employee or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving written notice to the Commissioner or his authorized representative of such violation or danger. Any such notice shall set forth with reasonable particularity the grounds for the notice and whether it concerns an imminent danger. The notice shall be in writing and signed by the employees or representatives of employees, and a copy shall be provided the employer or his agent by the Commissioner or his designated representative no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the Department of Labor, State of South Carolina. If, upon receipt of such notification, the Commissioner determines there are reasonable grounds to believe that such violation or danger exists, he shall cause special inspection to be made as soon as practicable to determine if such violation or

danger exists. In such inspections, the Safety Specialist shall not be limited to matters referred to in the request for inspection.

71–509. Inspection Not Warranted.

Failure to Issue Citation. If, pursuant to R. 71-507 and R. 71-508 of this subarticle, the Commissioner finds that a citation is not warranted with respect to any notice of violation in writing by an employee or representative of employees received under R. 71-508, he shall notify such employee(s) or representative(s) in writing of the reason for not issuing a citation or not conducting such inspection. Such employee(s) or representative(s) shall, upon request, be given an opportunity to seek review of such determination by stating his views in writing to the Commissioner. After considering such views, the Commissioner may issue a citation, order a reinspection, or reverse, affirm or modify the determination of the Director of Inspections. The Commissioner shall furnish the employee(s) or representative(s) of employees a written statement of the reasons for the final disposition of the case.

71–510. Conclusion of Inspection.

Upon completion of an inspection provided for under this part, the Safety Specialist shall confer with the employer or his representative and informally advise the employer of apparent safety and health violations disclosed by the investigation. As provided in Section 41-15-290, South Carolina Code of Laws, if the Safety Specialist concluded that conditions or practices exist which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through enforcement procedures otherwise provided by State Laws, rules and regulations, he shall immediately inform the employer of such danger. If the employer does not immediately abate the danger, he shall inform the Commissioner and the affected employee(s) of the danger. The Commissioner may direct the Safety Specialist to Red Tag the area which contains such imminent danger and no person shall enter the area without the permission of the Commissioner except those persons entering the area for sole purpose of making the area safe.

71–511. Objection to Inspection.

Upon refusal by any employer to permit a Safety Specialist to enter into any place of employment or any place therein, or with respect to any condition, structure, machine, apparatus, device, equipment or materials therein, or to review any records, to question any employer, owner, operator, agent, or employee, or to permit a representative of employees to accompany the Safety Specialist during an inspection in accordance with the provision of R. 71-506, the Safety Specialist shall terminate the inspection or he may confine the inspection to other areas, structures, machines, records, or interviews concerning which no objection is raised. The Safety Specialist shall immediately report the refusal and the grounds to the Director of Inspections. The Director of Inspections shall immediately consult with the Commissioner who shall promptly seek appropriate compulsory process.

71–512. Entry Not a Waiver of Cause of Action.

Any permission to enter, interrogate any person(s), or review records shall not constitute a waiver of any cause of action, citation, or penalty under the law, rules and regulation, and Safety Specialists are not authorized to grant any such waiver.

SUBARTICLE 6
SOUTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR GENERAL INDUSTRY AND PUBLIC SECTOR MARINE TERMINALS

(Statutory Authority: 1976 Code § 41–15–210)

NOTE—This subarticle is identical to the federal regulations contained in 29 CFR 1910, entitled "Occupational Safety and Health Standards for General Industry", except for the following modifications:

A. Subparts A and B of 29 CFR 1910 of federal standards do not apply to South Carolina, except that Section 1910.19 in Subpart B does apply.

B. Section 1910.7, the definition of "nationally recognized testing laboratory" has been revised to read:

" 'Nationally recognized testing laboratory' means an organization which has been evaluated and recognized by the U.S. Department of Labor, Occupational Safety and Health Administration (OSHA), in accordance with the requirements of 29 CFR 1910.1 and Appendix A of that section."

C. Section 1910.107(a)(2) has been revised to read:

"1910.107(a)(2) Spraying area. Any area in which dangerous quantities of flammable or combustible vapors, mists, residues, dusts or deposits are present due to the operation of spray processes. A spray area shall include:

(i) The interior of spray booths and rooms except as specifically provided in paragraph (j)(4) of this section.

(ii) The interior of ducts exhausting from spraying processes.

(iii) Any area in the direct path of spraying operations."

D. Section 1910.107(c)(6) has been revised to read:

"1910.107(c)(6) Equipment and wiring type approved. Electrical wiring and equipment not subject to deposits of combustible residues but located in a spraying area as defined herein shall be of the explosion-proof or other type approved for Class I, Division 1, Group D locations and shall otherwise conform to the provisions of Subpart S of this part, for Class I, Division 1, Hazardous Locations. Electrical wiring and equipment located adjacent to a spraying area, as herein defined, shall conform to either (i), (ii), (iii) or (iv) below.

(i) Equipment outside of, but within twenty feet horizontally, and ten feet vertically, of any spraying area, and not separated by partitions, shall not produce sparks under normal operating conditions, and shall otherwise conform to the provisions of Subpart S of this Part for Class I, Division 2 locations. (See Figure H-1)

(ii) If spraying operations are conducted within a closed top, open face or front booth or room, the electrical wiring and equipment outside of the booth or room, but within the space shown in Figures H-2 and H-3, shall not produce sparks under normal operation conditions, and shall otherwise conform to the provisions of Subpart S of this Part for Class I, Division 2 locations. The space within three feet in all directions from openings other than the open face or front shall be considered as Class I, Division 2. The Class I, Division 2 locations in Figures H-2 and H-3 shall extend from the open face or open front of the spray booth or room in accordance with the following:

(a) If the ventilation system is interlocked with the spraying equipment so as to make the spraying equipment inoperable when the ventilation system is not in operation, the space shall extend five feet from the open face or open front of the booth or room, and as otherwise shown in Figure H-2.

(b) If the ventilation system is not interlocked with the spraying equipment so as to make the spraying equipment inoperable when the ventilation system is not in operation, the space shall extend ten feet from the open face or open front of the booth or room, and as otherwise shown in Figure H-3.

(iii) If spraying operations are conducted within an open top booth, the electrical wiring and equipment within the space five feet above the booth and within the space shown in Figure H-3 as a Class I, Division 2 location adjacent to the opening, shall not produce sparks under normal operating conditions, and shall otherwise conform to the provisions of Subpart S of this Part for Class I, Division 2 locations.

(iv) If spraying operations are confined to an enclosed spray booth or room, the space adjacent to the booth or room shall be considered as nonhazardous due to the spraying operations, except for the space within three feet in all directions from any openings in the booth or room. Electrical wiring and equipment within the space within three feet in all directions from any opening shall not produce sparks under normal operating conditions, and shall otherwise conform to the provisions of Subpart S of this Part for Class I, Division 2 locations."

E. Section 1910.108(e) has been revised to read:

"1910.108(e) Electrical and other sources of ignition.

(1) Vapor areas. There shall be no open flames, sparks producing devices, or heated surfaces having a temperature sufficient to ignite vapors in any area as defined in paragraph (2) below.

(i) When maintenance operation involve the use of welding, burning or grinding equipment, such operations shall be done under the supervision of properly designated personnel with adequate fire extinguishing equipment.

(2) Except as specifically permitted in paragraph (h)(3) of this section, relating to electrostatic apparatus, or where suitably separated by tight partitions, electrical installations shall conform to the requirements of Hazardous Locations in Subpart S of this Part, as follows:

(i) Pits below the floor within twenty feet horizontally of the vapor source shall be classed as Class I, Division. 1.

(ii) From the vapor source, a radial distance of five feet shall be classed as Class I, Division 1.

(iii) From the vapor source the space between five feet radial distance and eight feet radial distance shall be classed as Class I, Division 2. The vapor source shall be considered to extend from the liquid surface or wetted surface to the floor.

(iv) Horizontally from the vapor source for a radial distance twenty feet and vertically for three feet above the floor to the floor shall be classed as Class I, Division 2.

(3) The presence of ordinary infrared drying lamps is prohibited in any vapor area; however, their use is permitted when adequate ventilation, conforming to paragraph (b) of this section, is maintained in such a manner that their location is not within the vapor area.

(4) Unless specifically approved for locations containing both deposits of readily ignitable residue and explosive vapors, there shall be no electrical equipment in the vicinity of dip tanks, or associated drain boards or drying operations, which are subject to splashing or dripping of dip tank liquids. However, wiring in rigid conduit or in threaded boxes and fittings containing no taps, splices, or terminal connections is permitted."

F. 29 CFR 1917, entitled "Marine Terminals" is incorporated into this subarticle, without any modifications, and applies to marine terminals in the public sector only.

G. At least two employees are located outside the IDLH atmosphere; however, prior to the assembly of the entire firefighting team, a qualified incident commander may allow two or more employees to enter the IDLH atmosphere with one employee located outside the IDLH atmosphere until the arrival of additional employees, provided that the following conditions are met:

1. the incident commander has completed the Incident Command System course or its equivalent as certified by the South Carolina Fire Academy;

2. the employees who enter the IDLH atmosphere have completed the Basic Firefighter Course or its equivalent as certified by the South Carolina Fire Academy;

3. the incident commander has determined that the standard staffing pattern is not feasible;

4. the incident commander has determined that the entry can be made safely with the personnel on-site; and

5. arrival of additional employees to complete the standard staffing pattern is imminent.

HISTORY: Amended by State Register Volume 23, Issue 6, eff June 25, 1999; State Register Volume 34, Issue 7, eff July 23, 2010.

Editor's Note

This subarticle was amended in State Register Volume 17, Issue No. 11, effective November 26, 1993, to incorporate certain changes made to corresponding Federal Regulations. Copies of final regulation changes can be obtained or reviewed at the South Carolina Department of Labor by contacting the Public Information Office at (803) 734-9612.

Chapter 71 was amended by State Register Volume 18, Issue No. 5, effective May 27, 1994 and provides as follows:

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

"A. In Subarticle 6 [General Industry and Marine Terminal standards]:

"1. Minimum standard for Electrical Protective Equipment shall be 29 CFR 1910.137 as amended in Federal Register, volume 59, number 20, pages 4320 through 4437, dated January 31, 1994.

"2. Minimum standard for Electric Power Generation, Transmission, and Distribution shall be 29 CFR 1910.269 as amended in Federal Register, volume 59, number 20, pages 4320 through 4435 and 4437 through 4475, dated January 31, 1994.

"3. Minimum standard Safety-Related Work Practices shall be 29 CFR 1910.331 and 1910.333 as amended in Federal Register, volume 59, number 20, pages 4475 through 4476, dated January 31, 1994.

"4. Minimum standard for Hazard Communication shall be 29 CFR 1910.1200 for General Industry and 1917.28 for Marine Terminals (Public Sector only) as amended in Federal Register, volume 59, number 27, pages 6126 through 6184, dated February 9, 1994, and volume 59, number 71, pages 17478 and 17479, dated April 13, 1994."

In State Register Volume 18, Issue No. 7, eff July 22, 1994, the following was printed as a final regulation:

"1. Minimum standard for General Requirements for Personal Protective Equipment shall be 29 CFR 1910.132 and Appendices A and B as amended in Federal Register, Volume 59, Number 66, pages 16334 through 16364, dated April 6, 1994.

"2. Minimum standard for Eye and Face protection shall be 29 CFR 1910.133 as amended in Federal Register, Volume 59, Number 66, pages 16334 through 16364, dated April 6, 1994.

"3. Minimum standard for Head protection shall be 29 CFR 1910.135 as amended in Federal Register, Volume 59, Number 66, pages 16334 through 16364, dated April 6, 1994.

"4. Minimum standard for Foot protection shall be 29 CFR 1910.136 as amended in Federal Register, Volume 59, Number 66, pages 16334 through 16364, dated April 6, 1994.

"5. Minimum standard for Hand protection shall be 29 CFR 1910.138 as amended in Federal Register, Volume 59, Number 66, pages 16334 through 16364, dated April 6, 1994."

Chapter 71 was amended by State Register Volume 18, Issue No. 10, effective October 28, 1994 and provides as follows:

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

"A. In Subarticle 6 [General Industry and Marine Terminals Standards (public sector only)]:

"1. Minimum standard for Personal Protective Equipment for General Industry shall be 29 CFR 1910.132, 1910.133, 1910.136, and 1910.138 as amended in Federal Register, volume 59, number 126, pages 33910 through 33911, dated July 1, 1994.

"2. Minimum standard for Electrical Protective Equipment shall be 29 CFR 1910.137 as amended in Federal Register, volume 59, number 125, pages 33658 through 33662, dated June 30, 1994.

"3. Minimum standard for Permit-Required Confined Spaces shall be 29 CFR 1910.146 as amended in Federal Register, volume 59, number 96, pages 26114 through 26116, dated May 19, 1994.

"4. Minimum standard for Electric power generation, transmission, and distribution shall be 29 CFR 1910.269 as amended in Federal Register, volume 59, number 125, pages 33658 through 33664, dated June 30, 1994.

"5. Minimum standard for Retention of DOT Markings Placards, and Labels shall be 29 CFR 1910.1201 as amended in Federal Register, volume 59, number 137, pages 36695 through 36700, dated July 19, 1994.

"6. Minimum standard for Retention of DOT Markings, Placards, and Labels shall be CFR 1917.29 as amended in Federal Register, volume 59, number 137, pages 36695 through 36700, dated July 19, 1994."

Chapter 71 was amended by State Register Volume 18, Issue No. 12, effective December 23, 1994 and corrected in State Register Volume 19, Issue No. 1, effective January 27, 1995, so that subarticle 6A(5) reads as follows:

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

"A. In Subarticle 6 [General Industry Standards]:

"1. Minimum standard for Special provisions for air contaminants shall be 29 CFR 1910.19 as amended in Federal Register, volume 59, number 153, page 41057, dated August 10, 1994.

"2. Minimum standard for Hazardous waste operations and emergency response shall be 29 CFR 1910.120 as amended in Federal Register, volume 59, number 161, pages 43270 through 43275, dated August 22, 1994.

"3. Minimum standard for Pulpwood logging shall be 29 CFR 1910.266 as amended in Federal Register, volume 59, number 196, pages 51741 through 51748, dated October 12, 1994. This standard becomes effective February 9, 1995.

"4. Minimum standard for Electric power generation, transmission, and distribution shall be 29 CFR 1910.269 as amended in Federal Register, volume 59, number 152, page 40729, dated August 9, 1994 which becomes effective February 6, 1995; and volume 59, number 196, page 51748, dated October 12, 1994, which becomes effective February 9, 1995.

"5. Minimum standard for Asbestos shall be 29 CFR 1910.1001 as amended in Federal Register, volume 59, number 153, pages 41057 through 41131, dated August 10, 1994."

Chapter 71 was amended by State Register Volume 19, Issue No. 3, effective March 24, 1995 and provides as follows:

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

"B. In Subarticle 6 [General Industry standards/Marine Terminals (Public Sector only)]:

"Minimum standard for Hazard Communication shall be 29 CFR 1910.1200 and 1917.28 as amended in Federal Register, volume 59, number 245, pages 65947 and 65948, dated December 22, 1994."

Chapter 71 was amended by State Register Volume 19, Issue No. 9, effective September 22, 1995 and provides as follows:

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

"A. In Subarticle 6 (General Industry):

"Minimum standard for Asbestos shall be 29 CFR 1910.1001 as amended in Federal Register, volume 60, number 124, page 33344 and volume 60, number 125, pages 33984 through 33987, dated June 29, 1995."

Chapter 71 was amended by State Register Volume 19, Issue No. 12, effective December 22, 1995 and provides as follows:

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

"A. In Subarticle 6 (General Industry):

"Minimum standard for Logging Operations shall be 29 CFR 1910.266 as amended in Federal Register, volume 60, number 174, page 47035 through 47037, dated September 8, 1995."

Chapter 71 was amended by State Register Volume 20, Issue No. 3, effective March 22, 1996 and provides as follows:

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

"In Subarticle 6 (General Industry):

"Minimum standard for Lead shall be 29 CFR 1910.1025 as amended in Federal Register, volume 60, number 196, page 52859, dated October 11, 1995."

Chapter 71 was amended by State Register Volume 20, Issue No. 7, effective July 26, 1996, which provides as follows:

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

"A. In Subarticle 6 (General Industry):

"1. Minimum standard for Personal Protective Equipment shall be 29 CFR 1910.133, 135, and 136 as amended in Federal Register, volume 61, number 86, pages 19547 through 19548 dated May 2, 1996, and Federal Register, volume 61, number 91, page 21228, dated May 9, 1996.

"2. Minimum standard for Grain Handling Facilities shall be 29 CFR 1910.272 as amended in Federal Register, volume 61, number 47, pages 9578 through 9584, dated March 8, 1996.

"3. Minimum standard for Occupational Safety and Health for General Industry shall be 29 CFR 1910.6, 1910.20, 1910.30, 1910.31, 1910.32, 1910.39, 1910.40, 1910.66, 1910.67, 1910.68, 1910.69, 1910.70, 1910.94, 1910.95, 1910.97, 1910.99, 1910.100, 1910.101, 1910.102, 1910.103, 1910.104, 1910.105, 1910.106, 1910.107, 1910.108, 1910.109, 1910.110, 1910.111, 1910.114, 1910.115, 1910.116, 1910.119, 1910.120, 1910.133, 1910.135, 1910.136, 1910.139, 1910.140, 1910.142, 1910.144, 1910.145, 1910.148, 1910.149, 1910.150, 1910.153, 1910.156, 1910.157, 1910.158, Subpart L-Appendix D, 1910.169, 1910.170, 1910.171, 1910.177, 1910.178, 1910.179, 1910.180, 1910.181, 1910.182, 1910.184, 1910.189, 1910.190, 1910.215, 1910.216, 1910.217, 1910.218, 1910.219, 1910.220, 1910.221, 1910.222, 1910.243, 1910.245, 1910.246, 1910.247 1910.251, 1910.252, 1910.253, 1910.254, 1910.256, 1910.257, 1910.261, 1910.262, 1910.263, 1910.265, 1910.266, 1910.268, 1910.272, 1910.274, 1910.275, 1910.440, 1910.1003 1910.1004-1910.1016, 1910.1018, 1910.1200, 1910.1499, and 1910.1500 as amended in Federal Register, volume 61, number 46, pages 9228 through 9245, dated March 7, 1996.

"4. Minimum standard for subarticle 6, paragraph A. shall be A. Subparts A and B of 29 CFR 1910 of the federal standards do not apply to South Carolina, except 1910.6, 1910.7, and 1910.19 do apply."

Chapter 71 was amended by State Register Volume 20, Issue No. 11, effective November 22, 1996 and provides as follows:

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

"A. In Subarticle 6 (General Industry):

"1. Minimum standard for occupational safety and health shall be 1910.20, 1910.Subpart C, 1910.96, and 1910.1003, as amended in Federal Register, volume 61, number 120, pages 31427 through 31430, dated June 20, 1996.

"2. Minimum standard for Asbestos shall be 1910.1001 as amended in Federal Register, volume 61, number 165, pages 43454 through 43457, dated August 23, 1996."

Chapter 71 was amended by State Register Volume 21, Issue No. 3, effective March 28, 1997 and provides as follows:

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

"A. In Subarticle 6 (General Industry):

"1. Minimum standard for 1,3 Butadiene shall be 1910.1051 with associated revisions to 1910.19 and 1910.1000, as amended in Federal Register, volume 61, number 214, pages 56831 through 56856, dated November 4, 1996.

"2. Minimum standard for Methylene Chloride shall be 1910.1052 with associated revisions to 1910.19 and 1910.1000, as amended in Federal Register, volume 62, number 7, pages 1600 through 1618, dated January 10, 1997. This standard becomes effective April 10, 1997."

Chapter 71 was amended by State Register Volume 21, Issue No. 12, effective December 26, 1997, and provides as follows:

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

"In Subarticle 6 (General Industry and Public Sector Marine Terminals):

"Minimum standard for Air Contaminants shall be 1910.1000 as amended in Federal Register, volume 62, number 149, page 42018, dated August 4, 1997.

"Minimum standard for Methylene Chloride shall be 1910.1052 as amended in Federal Register, volume 62, number 153, pages 42666 and 42667, dated August 8, 1997, number 178, pages 48175 and 48176, dated September 15, 1997 and number 202, pages 54382 and 54383, dated October 20, 1997.

"Minimum standard for Marine Terminals shall be 1917 as amended in Federal Register, volume 62, number 143, pages 40141 through 40202, dated July 25, 1997.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Public Information Office at (803) 896–4380."

Chapter 71 was amended by State Register Volume 22, Issue No. 4, effective April 24, 1998 and provides as follows:

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

"A. In Subarticle 6 (General Industry):

"1. Minimum standard for Respiratory Protection shall be 1910.134 with related revisions to 1910.94, 1910.111, 1910.156, 1910.252, 1910.261, 1910.1001, 1910.1003, 1910.1017, 1910.1018, 1910.1025, 1910.1027, 1910.1028, 1910.1029, 1910.1043, 1910.1044, 1910.1045, 1910.1047, 1910.1048, 1910.1050,

1910.1051, and 1910.1052, as amended in FEDERAL REGISTER, Volume 63, Number 5, pages 1151 through 1295, dated January 8, 1998.

"2. Minimum standard for Respiratory protection for M. tuberculosis shall be 1910.139 as amended in FEDERAL REGISTER, Volume 63, Number 5, page 1270, dated January 8, 1998.

"3. Minimum standard for Methylene Chloride shall be 1910.1052 as amended in FEDERAL REGISTER, Volume 62, Number 243, pages 66275 through 66277, dated December 18, 1997."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 22, Issue No. 9, Part 1, effective September 25, 1998, which provides as follows:

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

"In Subarticle 6 (General Industry):

"Minimum standard for Respiratory Protection shall be 1910.134 with related corrections to 1910.1003, 1910.1025, 1910.1028, 1910.1045, 1910.1048 1910.1050 and 1910.1052 as amended in Federal Register, volume 63, number 78, pages 20098 and 20099, dated April 23, 1998.

"Minimum standard for miscellaneous standards shall be 1010.109, 1910.110, 1910.111, 1910.141, 1910.142, 1910.151, 1910.156, 1910.183, 1910.261, 1910.262, 1910.265, 1910.267, 1910.268, 1910.1017, 1910.1018, and 1910.1029 as amended in Federal Register, volume 63, number 117, pages 33466 though 33468, dated June 18,1998."

Chapter 71, Article I, Subarticle 6 was amended by State Register Volume 23, Issue No. 1, effective January 22, 1999, which provides as follows:

"Minimum standard for Methylene Chloride shall be 1910.1052 as amended in FEDERAL REGISTER, Volume 63, Number 183, pages 50729 through 50732, dated September 22, 1998.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor. Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896–4380."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 23, Issue No. 5, effective May 28, 1999, which provides as follows:

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

"In Subarticle 6 (General Industry and Marine Terminals):

"Minimum standard for Permit-Required Confined Spaces shall be 1910.146 as amended in FEDERAL REGISTER, Volume 63, Number 230, pages 66038 through 66040, dated December 1, 1998.

"Minimum standard for Powered Industrial Trucks shall be 1910.178 and 1917.1 as amended in FEDERAL REGISTER, Volume 63, Number 230, pages 66270 through 66274, dated December 1, 1998."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 23, Issue No. 8, effective August 27, 1999, which provides as follows:

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

"In Subarticle 6 (General Industry):

"Minimum standard for Dipping and Coating Operations shall be new sections 1910.121 through 1910.126 with related revisions to 1910.6, 1910.94, and 1910.108, as amended in FEDERAL REGISTER, Volume 64, Number 55, pages 13908 through 13912, dated March 23, 1999.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896–4380."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 24, Issue No. 1, effective January 28, 2000, which provides as follows:

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

"In Subarticle 6 (General Industry & Marine Terminals):

"1. Minimum standard for Subarticle 6, paragraph E. shall be: E. [Reserved]"

"2. Minimum standard for Powered Industrial Truck Operator Training shall be section 1917.1, as amended in FEDERAL REGISTER, Volume 64, Number 166, page 46847, dated August 27, 1999.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896–4380."

This subarticle was amended in State Register Volume 24, Issue 11, effective November 24, 2000 as follows:

"Minimum standard for Subarticle 6, paragraph F, shall be revisions to 1917.1–3, 1917.23 1917.25–27, 1917.30, 1917.42–45, 1917.50, 1917.71, 1917.73, 1917.92, 1917.95, 1917.112, 1917.117–122, 1917.124, 1917.151–153, and 1917.156, as amended in FEDERAL REGISTER, Volume 65, Number 127, pages 40937–40943, dated June 30, 2000.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896–4380."

This subarticle was amended in State Register Volume 25, Issue 4, effective April 27, 2001 as follows:

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

"In Subarticle 6 (General Industry & Marine Terminals):

"1. Minimum standard for Bloodborne pathogens shall be 1910.1030, as amended in FEDERAL REGISTER, Volume 66, Number 12, page 5325, dated January 18, 2001.

"The compliance date for this amendment is June 17, 2001.

"2. Minimum standard for Cotton Dust shall be 1910.1043, as amended in FEDERAL REGISTER, Volume 65, Number 236, page 76567, dated December 7, 2000. The compliance date for this amendment is June 5, 2001."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 27, Issue No. 3, effective March 28, 2003, which provides as follows:

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

"In Subarticle 6 (General Industry):

"Minimum standard for Exit Routes, Emergency Action Plans, and Fire Prevention Plans shall be 1910.33—1910.39 and related revisions to 1910.119, 1910.120, 1910.157, 1910.268, 1910.272, 1910.1047, 1910.1050, 1910.1051 as amended in FEDERAL REGISTER, Volume 67, Number 216, pages 67961—67965, dated November 7, 2002.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896–4380."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 28, Issue No. 5, effective May 28, 2004, which provides as follows:

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

"In Subarticle 6 (General Industry):

"Removal of Subpart I, Section 1910.139 Respiratory Protection for M. Tuberculosis as amended in FEDERAL REGISTER, Volume 68, Number 250, pages 75776–75780, dated December 31, 2003.

"In Subarticle 6 (General Industry):

"Retention of Subpart N, Section 1910.178 (m)(12) of the Powered Industrial Truck Standard including its subordinate paragraphs (m)(12)(i) through (m)(12)(iii). As a result of the significant percentage of deaths and injuries attributed to falls from personnel lifting that have occurred per year in South Carolina, SCOSHA has decided not to adopt the change made by the United States Department of Labor but to retain 1910.178 (m)(12). Paragraph (m)(12) of §1910.178, as it was published in May 1971, reads as follows:

"Whenever a truck is equipped with vertical only, or vertical and horizontal controls elevatable with the lifting carriage or forks for lifting personnel, the following additional precautions ***shall be taken*** for the protection of personnel being elevated.

"(i) Use of a safety platform firmly secured to the lifting carriage and/or forks.

"(ii) Means ***shall be provided*** whereby personnel on the platform can shut off power to the truck.

"(iii) Such protection from falling objects as indicated necessary by the operating conditions ***shall be provided.***

"In Subarticle 6 (General Industry):

"Minimum standard for Commercial Diving Operations shall be 1910.401–402 with addition of Appendix C to Subpart T as amended in FEDERAL REGISTER, Volume 69, Number 31, pages 7351–7366, dated February 17, 2004.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor. Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896–4380."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 29, Issue No. 5, effective May 27, 2005, which provides as follows:

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

"In Subarticle 6 (General Industry and Shipyard Employment):

"Minimum standard for Subarticle 6 shall be 1910.103, 1910.217, 1910.219, and 1910.268, as amended in FEDERAL REGISTER, Volume 69, Number 110, pages 31880–31882, dated June 8, 2004.

"Minimum standard for Subarticle 6 shall be 1910.134, as amended in FEDERAL REGISTER, Volume 69, Number 149, pages 46986–46994, dated August 4, 2004.

"Minimum standard for Subarticle 6 shall be 1910.142, 1910.268, 1910.1001, 1910.1003, 1910.1017, 1910.1018, 1910.1025, 1910.1027, 1910.1028, 1910.1029, 1910.1043, 1910.1044, 1910.1045, 1910.1047, 1910.1048, 1910.1051, and 1915.1001 as amended in FEDERAL REGISTER, Volume 70, Number 3, pages 1111–1114, dated January 5, 2005.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the Office of Public Information at (803) 896–4380."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 30, Issue No. 5, effective May 26, 2006, which provides as follows:

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

"In Subarticle 6 (General Industry and Shipyard Employment):

"Minimum standard for Subarticle 6 shall be 1910.6, 1910.106, 1910.142, 1910.243, 1910.254, 1910.265, and 1915.8, as amended in FEDERAL REGISTER, Volume 70, Number 176, pages 53925–53929, dated September 13, 2005.

"Minimum standard for Occupational Exposure to Hexavalent Chromium (Chromium (VI)) shall be 1910.1000, 1910.1026, 1915.1000, and 1915.1026 as amended in FEDERAL REGISTER, Volume 71, Number 39, pages 10099–10385, dated February 28, 2006.

"Minimum standard for Fire Protection in Shipyard Employment shall be 1915.5, 1915.8, 1915.52 and 1915.501–508 as amended in FEDERAL REGISTER, Volume 69, Number 178, pages 55667–55708, dated September 15, 2004.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896–7682."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 30, Issue No. 12, effective December 22, 2006, which provides as follows:

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

"In Subarticle 6 (General Industry and Shipyard Employment):

"Removal of 1910.441 from Subpart T and minimum standard for Powered Industrial Trucks and Logging Operations shall be 1910.178 and 1910.266, as amended in FEDERAL REGISTER, Volume 70, Number 63, pages 16669–16675, dated April 3, 2006.

"Removal of outdated effective dates and/or startup dates shall be 1910.95, 1910.134, 1910.1000, 1910.1001, 1910.1017, 1910.1018, 1910.1025, 1910.1028, 1910.1029, 1910.1030, 1910.1043, 1910.1045, 1910.1047, 1910.1048, 1910.1050, 1910.1051, 1910.1052, 1910.1450, and 1915.1001, as amended in FEDERAL REGISTER, Volume 70, Number 63, pages 16669–16677, dated April 3, 2006.

"For each of the following paragraphs in parts 1910 ('Occupational Safety and Health Standards'), SCOSHA is removing the reference to SCRR, Chapter 71, 1910.20 and replacing it with a reference to the new designation, SCRR, Chapter 71, 1910.1020: 1910.95, 1910.120, 1910.440, 1910.1001, 1910.1003, 1910.1017, 1910.1018, 1910.1025, 1910.1027, 1910.1029, 1910.1030, 1910.1043, 1910.1044, 1910.1045, 1910.1047, 1910.1048, 1910.1050, 1910.1051, and 1915.1001 as amended in FEDERAL REGISTER, Volume 70, Number 63, pages 16669–16677, dated April 3, 2006.

"Minimum standard for Occupational Exposure to Hexavalent Chromium (Chromium (VI)) shall be 1910.1000, 1910.1026, 1915.1000 and 1915.1026 as amended in FEDERAL REGISTER, Volume 71, Number 121, pages 36008–36010, dated June 23, 2006.

"Minimum standard for Respiratory Protection shall be 1910.134, 1910.1001, 1910.1017, 1910.1018, 1910.1025, 1910.1027, 1910.1028, 1910.1029, 1910.1043, 1910.1044, 1910.1045, 1910.1047, 1910.1048, 1910.1050, 1910.1052, and 1915.1001, as amended in FEDERAL REGISTER, Volume 71, Number 164, pages 50121–50192, dated August 24, 2006.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896–7682."

Minimum standard for Subarticle 6, shall include revisions to Subpart A- General, section 1910.6, Subpart F- Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms, section 1910.66, and Subpart S-Electrical, Sections 1910.302, 1910.303, 1910.304, 1910.305, 1910.306, 1910.307, 1910.308, and 1910.399 as amended in FEDERAL REGISTER, Volume 72, Number 30, pages 7136–7221, dated February 14, 2007.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896–7682.

"Minimum standard for Payment for protective equipment shall be 1910.132, 1917.96, and 1918.106 as amended in FEDERAL REGISTER, Volume 72, Number 220, pages 64341–64430, dated November 15, 2007."

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

In Subarticle 6 (General Industry and Shipyard Employment):

Revisions to Sections 1910.9, 1910.95, 1910.134, 1910.156, 1910.1001, 1910.1003, 1910.1017, 1910.1018, 1910.1025, 1910.1026, 1910.1027, 1910.1028, 1910.1029, 1910.1030, 1910.1043, 1910.1044, 1910.1045,

1910.1047, 1910.1048, 1910.1050, 1910.1051, 1910.1052, 1917.5 as amended in FEDERAL REGISTER, Volume 73, No. 240, pp.75583 - 75588, dated December 12, 2008.

Revisions to Sections 1910.303, 1910.304 as amended in FEDERAL REGISTER, Volume 73, No. 210, p. 64205, dated October 29, 2008.

Revisions to Sections 1910.6, 1910.68, 1910.94, 1910.103, 1910.107, 1910.110, 1910.111, 1910.144, 1910.243, 1910.251, 1910.253, 1910.261 as amended in FEDERAL REGISTER, Volume 72, No. 240, pp. 71064 - 71066, dated December 14, 2007.

Revisions to Section 1917.71 as amended in FEDERAL REGISTER, Volume 73, No. 238, pp. 75289 - 75290, dated December 10, 2008.

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

In Subarticle 6 (General Industry and Marine Terminals):

Minimum standard for Acetylene shall be 1910.102 as amended in FEDERAL REGISTER, Volume 74, Number 153, pages 40441–40447, dated August 11, 2009.

Minimum standard for Personal Protective Equipment shall be 1910.133, 1910.135, 1910.136, 1917.91, 1917.93, 1917.94, and related revisions to 1910.94 and 1910.252 as amended in FEDERAL REGISTER, Volume 74, Number 173, pages 46350–46361, dated September 9, 2009.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896–7682.

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

In Subarticle 6 (General Industry and Shipyard Employment):

Revisions to Sections 1910.7, 1910.8, 1910.9, 1910.1000, and 1910.1026, as amended in FEDERAL REGISTER, Volume 75, No. 51, pp.12681 - 12686, dated March 17, 2010.

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

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

In Subarticle 6 (General Industry and Shipyard Employment):

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

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896-5811 or on the OSHA website at www.OSHA.gov. [State Register Volume No. 35, Issue No. 10, eff October 28, 2011]

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

In Subarticle 6 (General Industry and Shipyard Employment):

Revisions to Sections 1910.6, 1910.102, 1910.106, 1910.107, 1910.119, 1910.120, 1910.123, 1910.124, 1910.125, 1910.126, 1910.146, 1910.151, 1910.177, 1910.217, 1910.252, 1910.261, 1910.265, 1910.272, 1910.440, 1910.1001, 1910.1003, 1910.1017, 1910.1018, 1910.1025, 1910.1026, 1910.1027, 1910.1028, 1910.1029, 1910.1030, 1910.1043, 1910.1044, 1910.1045, 1910.1047, 1910.1048, 1910.1050, 1910.1051, 1910.1052, 1910.1200, 1910.1450, as amended in FEDERAL REGISTER Volume 76, Number 233, page 75786 dated Monday, December 5, 2011, FEDERAL REGISTER Volume 76, Number 248, pages 80738 through 80741, dated Tuesday, December 27, 2011, FEDERAL REGISTER Volume 77, Number 58, pages 17764 through 17896, dated Monday, March 26, 2012 and FEDERAL REGISTER Volume 77, Number 64, pages 19933 through 19934, dated Tuesday, April 3, 2012.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896-5811 or on the OSHA website at www.OSHA.gov. [State Register Volume No. 36, Issue No. 5, eff May 25, 2012]

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 36, Issue No. 11, effective November 23, 2012, which provides as follows:

"In Subarticle 6 (General Industry and Shipyard Employment):

"Revisions to Sections 1910.6, 1910.134, 1910.135, and 1910.217, as amended in Federal Register Volume 77, Number 121, dated Friday, June 22, 2012, and Federal Register Volume 77, Number 152, page 46948, dated Tuesday, August 7, 2012.

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

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 37, Issue No. 4, effective April 26, 2013, which provides as follows:

"In Subarticle 6 (General Industry and Shipyard Employment):

"Revisions to Sections 1910.119, 1910.120, 1910.1001, 1910.1044, 1910.1048, 1910.1051, 1910.1052, 1910.1200 and 1910.1450, as amended in FEDERAL REGISTER Volume 78, Number 14, pages 4324 through 4331 dated Tuesday, January 22, 2013, and FEDERAL REGISTER Volume 78, Number 27, pages 9311 through 9315, dated Friday, February 8, 2013.

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

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 37, Issue No. 9, effective September 27, 2013, which provides as follows:

"In Subarticle 6 (General Industry and Shipyard Employment): Revisions to Sections 1910.6, 1910.97, 1910.145 and 1910.261, as amended in Federal Register Volume 78, Number 114 dated Thursday, June 13, 2013 pages 35559 through 35567.

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

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 38, Issue No. 3, Doc. No. 4458, effective March 28, 2014, which provides as follows:

"In Subarticle 6 (General Industry): Revisions to Sections 1910.6, 1910.97, 1910.145, 1910.217 and 1910.261 as amended in Federal Register, Volume 78, No. 114, dated Thursday, June 13, 2013, pages 35559 through 35567; Federal Register, Volume 78, No. 215, dated Wednesday, November 6, 2013, pages 66641 through 66642; Federal Register, Volume 78, No. 215, dated Wednesday, November 6, 2013, pages 66642 through 66643; and Federal Register, Volume 78, No. 224, dated Wednesday, November 20, 2013, pages 69543 through 69550."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 38, Issue No. 9, Doc. No. 4486, effective September 26, 2014, which provides as follows:

"In Subarticle 6 (General Industry and Public Sector Marine Terminals):

"Revisions to Sections: 1910.136, 1910.137, 1910.217, 1910.269, 1910.331, 1910.399, Appendix A to Part 1910.269 Flow Charts, Appendix B to Subpart I, Nonmandatory Compliance Guidelines for Hazard Assessment and Personal Protective Equipment Selection."

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 39, Issue No. 1, Doc. No. 4561, effective January 23, 2015, which provides as follows:

"In Subarticle 6 (General Industry):

"Revisions to Sections: 1910.36, 1910.141, 1910.269, Table R-3- AC Live-line Work Minimum Approach Distance, Appendix A-2 to Subpart V of Part 1910.269--Application of 1910.269 and Subpart S of this Part to Electrical Safety-Related Work Practices."

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

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 40, Issue No. 2, Doc. No. 4644, effective February 26, 2016, which provides as follows:

"In Subarticle 6 (General Industry):

"Revisions to Sections: 1910.269 and 1910.331, as amended in Final Register Volume 80, No. 192, dated October 5, 2015, pages 60033 through 60040."

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

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 40, Issue No. 7, Doc. No. 4653, effective July 22, 2016, which provides as follows:

"In Subarticle 6 (General Industry and Public Marine Terminals):

"Revisions to Section: 1910.106 as amended in Final Register Volume 81, Number 40, dated March 1, 2016, pages 10490 through 10491

"Revisions to Sections: 1910.6, 1910.133, 1917.3, 1917.91 as amended in Final Register Volume 81, Number 58, dated March 25, 2016, pages 16090 through 16091

"Revisions to Sections: 1910.1000 and 1910.1053 as amended in Final Register Volume 81, Number 58, dated March 25, 2016, pages 16861 through 16874

"Revisions to Sections: 1910.1000 as amended in Final Register Volume 81, Number 96, dated May 18, 2016, page 31167 "

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

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 41, Issue No. 1, Doc. No. 4742, effective January 27, 2017, which provides as follows:

"In Subarticle 6 (General Industry):

"Revisions to Sections: 1910.6, 1910.21, 1910.22, 1910.23, 1910.24, 1910.25, 1910.26, 1910.27, 1910.28, 1910.29, 1910.30, 1910.66, Appendix C to 1910.66, Appendix D to 1910.66, 1910.67, 1910.68, 1910.132, 1910.139, 1910.140, Appendix C to Subpart I of Part 1910-Personal Fall Protection Systems Non-mandatory Guidelines, Appendix D to Subpart I of Part 1910-Test Methods for Personal Fall Protection Systems-Non-mandatory Guidelines, 1910.261, 1910.262, 1910.265, 1910.268 and 1910.269 as amended in Federal Register Vol. 81, Number. 223, Friday, November 18, 2016."

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

Chapter 71, Article 1, Subarticle 6 was amended by State Register Volume 41, Issue No. 6, Doc. No. 4751, effective June 23, 2017, which provides as follows:

"In Subarticle 6 (General Industry):

"Revisions to Sections: 1910.1000 – Air Contaminants and 1910.1024 - Beryllium as amended in Final Register Volume 82, No. 5, dated January 9, 2017, pages 2735 through 2743."

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

Chapter 71, Article 1, Subarticle 6 was amended by SCSR42-10 Doc. No. 4825, effective October 26, 2018, which provides as follows:

"In Subarticle 6 (General Industry):

"Revisions to Section: 1910.1024 Beryllium (Subpart Z-Toxic and Hazardous Substances)"

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

Chapter 71, Article 1, Subarticle 6 was amended by SCSR43-2 Doc. No. 4877, effective February 22, 2019, which provides as follows:

"In Subarticle 6 (General Industry):

"Revisions to Section: 1910.1024, as amended in Federal Register Volume 83, No. 128, dated July 3, 2018 pages 31045 through 31046, and in Federal Register Volume 83, No. 154, dated August 9, 2018 page 39360."

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

Chapter 71, Article 1, Subarticle 6 was amended by SCSR 43–9 Doc. No. 4906, effective September 27, 2019, which provides as follows:

"In Subarticle 6 (General Industry):

"Revisions to Sections 1910.119 Process Safety Management of Highly Hazardous Chemicals, and 1910.184 Slings, as amended in Federal Register Volume 84, No. 72, dated April 15, 2019, pages 15102 through 15107; and revisions to Sections 1910.6 Incorporation by Reference, 1910.120 HAZWOPER, 1910.1001 Asbestos, 1910.1017 Vinyl Chloride, 1910.1018 Inorganic Arsenic, 1910.1025 Lead, 1910.1026 Chromium (VI), 1910.1027 Cadmium, 1910.1028 Benzene, 1910.1029 Coke Oven Emissions, 1910.1030 Bloodborne Pathogens, 1910.1043 Cotton Dust, 1910.1044 1,2-Dibromo-3-chloropropane, 1910.1045 Acrylonitrile, 1910.1047 Ethylene Oxide, 1910.1048 Formaldehyde, 1910.1050 Methylenedianiline, 1910.1051 1,3-Butadiene, 1910.1052 Methylene Chloride, and 1910.1053 Respirable Crystalline Silica, as amended in Federal Register Volume 84, No. 93, dated May 14, 2019, pages 21457 through 21555."

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

Chapter 71, Article 1, Subarticle 6 was amended by SCSR 44–2 Doc. No. 4961, effective February 28, 2020, which provides as follows:

"In Subarticle 6 (General Industry):

"Revisions to Section Appendix A to 1910.134 Respiratory Protection as amended in Federal Register Volume 84, No. 187, dated September 26, 2019, pages 50755 through 50756; and revisions to Sections 1910.23 Ladders, 1910.25 Stairways, 1910.27 Scaffolds and Rope Descent Systems, 1910.29 Fall Protection Systems and Falling Object Protection – Criteria and Practices, 1910.140 Personal Fall Protection, and 1910.269 Electric Power Generation, Transmission, and Distribution as amended in Federal Register Volume 84, No. 242, dated December 17, 2019, pages 68795 through 68797."

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

SUBARTICLE 7
SOUTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR THE CONSTRUCTION INDUSTRY

(Statutory Authority: 1976 Code § 41–15–210)

NOTE—This subarticle is identical to federal regulations contained in 29 CFR 1926, entitled "Occupational Safety and Health Standards for Construction", except for the following modifications:

A. Subparts A and B of 29 CFR 1926 of federal standards do not apply to South Carolina.

B. Section 1926.20(a) has been revised to read:

"1926.20(a) Contractor Requirements. (1) No contractor or subcontractor for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety."

C. Section 1926.30 has been deleted in its entirety.

D. Section 1926.31 has been deleted in its entirety.

E. Section 1926.32(a) has been deleted in its entirety.

F. Section 1926.650(b), the definition of "Competent person" has been revised to read:

"Competent person means one who is capable of identifying existing and predictable hazards in the surrounding, or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them. In order to be a competent person for the purpose of this standard one must have had specific training in, and be knowledgeable about soils analysis is, the use of protective systems, and the requirements of this standard."

Editor's Note

This subarticle was amended in State Register Volume 17, Issue No. 11, effective November 26, 1993, to incorporate certain changes made to corresponding Federal Regulations. Copies of final regulation changes can be obtained or reviewed at the South Carolina Department of Labor by contacting the Public Information Office at (803) 734-9612.

Chapter 71 was amended by State Register Volume 18, Issue No. 5, effective May 27, 1994, provides as follows:

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

"B. In Subarticle 7 (Construction standards):

"1. Minimum standard for Hazard Communication shall be 29 CFR 1926.59 as amended in Federal Register, volume 59, number 27, pages 6126 through 6184, dated February 9, 1994.

"2. Minimum standard for Cadmium shall be 29 CFR 1926.1127 as amended in Federal Register, volume 59, number 1, page 146, 147, and 215, dated January 3, 1994."

Chapter 71 was amended by State Register Volume 18, Issue No. 10, effective October 28, 1994, provides as follows:

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

"B. In Subarticle 7 (Construction standards).

"1. Minimum standard for Retention of DOT Markings, Placards, and Labels shall be 29 CFR 1926.61 as amended in Federal Register, volume 59, number 137, pages 36695 through 36700, dated July 19, 1994."

Chapter 71 was amended by State Register Volume 18, Issue No. 12, effective December 23, 1994, and corrected in State Register Volume 19, Issue No. 1, effective January 27, 1995 so that subarticle 7(B)(1) and B(6), read as follows:

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

"B. In Subarticle 7 (Construction standards).

"1. Minimum standard for Asbestos shall be 29 CFR 1926.58 and 1926.1101 as amended in Federal Register, volume 59, number 153, pages 41131 through 41132, dated August 10, 1994.

"2. Minimum standard for Hazardous waste operations and emergency response shall be 29 CFR 1926.65 as amended in Federal Register, volume 59, number 161, pages 43275 through 43280, dated August 22, 1994.

"3. Minimum standard for Personal Protective and Life Saving Equipment shall be 29 CFR 1926.104, 105, and 107 as amended in Federal Register, volume 59, number 152, page 40729, dated August 9, 1994. This standard becomes effective February 6, 1995.

"4. Minimum standard for Materials Handling, Storage, Use, and Disposal shall be 29 CFR 1926.250 as amended in Federal Register, volume 59, No. 152, page 40729 and 40730, dated August 9, 1994. This standard becomes effective February 6, 1995.

"5. Minimum standard for Fall Protection shall be 29 CFR 1926.Subpart M as amended in Federal Register, volume 59, number 152, pages 40730 through 40753, dated August 9, 1994. This standard becomes effective February 6, 1995.

"6. Minimum standard for Cranes, Derricks, Hoists, Elevators, and Conveyors shall be 29 CFR 1926.550 as amended in Federal Register, volume 59, No. 152, page 40730, dated August 9, 1994. This standard becomes effective February 6, 1995.

"7. Minimum standard for Excavations shall be 29 CFR 1926.651 as amended in Federal Register, volume 59, No. 152, page 40730, dated August 9, 1994. This standard becomes effective February 6, 1995.

"8. Minimum standard for Concrete and Masonry Construction shall be 29 CFR 1926.701 as amended in Federal Register, volume 59, number 152, page 40730, dated August 9, 1994. This standard becomes effective February 6, 1995.

"9. Minimum standard for Steel Erection shall be 29 CFR 1926.753 as amended in Federal Register, volume 59, number 152, page 40729, dated August 9, 1994. This standard becomes effective February 6, 1995.

"10. Minimum standard for Power Transmission and Distribution shall be 29 CFR 1926.951 as amended in Federal Register, volume 59, number 152, page 40730, dated August 9, 1994. This standard becomes effective February 6, 1995.

"11. Minimum standard for Asbestos shall be 29 CFR 1926.1101 as amended in Federal Register, volume 59, number 153, page 41132 through 41162, dated August 10, 1994."

Chapter 71 was amended by State Register Volume 19, Issue No. 3, effective March 24, 1995 and provides as follows:

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

"C. In Subarticle 7 (Construction):

"Minimum standard for Hazard Communication shall be 29 CFR 1926.59 as amended in Federal Register, volume 59, number 245, pages 65947 and 65948, dated December 22, 1994."

Chapter 71 was amended by State Register Volume 19, Issue No. 9, effective September 22, 1995 and provides as follows:

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

"B. In Subarticle 7 (Construction):

"Minimum standard for Asbestos shall be 29 CFR 1926.1101 as amended in Federal Register, volume 60, number 124, page 33345, volume 60, number 125, pages 33995 through 34002, and volume 60, number 134, page 36044, dated July 13, 1995."

Chapter 71 was amended by State Register Volume 19, Issue No. 12, effective December 22, 1995 and provides as follows:

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

"B. In Subarticle 7 (Constitution):

"1. Minimum standard for Personal Protective and Life Saving Equipment shall be 29 CFR 1926. Subpart E as amended in Federal Register, volume 60, number 148, page 39255, dated August 2, 1995.

"2. Minimum standard for Fall Protection shall be 29, CFR 1926.500 as amended in Federal Register, volume 60, number 148, page 39255, dated August 2, 1995.

"3.Minimum standard for Asbestos shall be 29 CFR 1927.1101 as amended in Federal Register, volume 60, number 189, pages 50412 and 50413, dated September 29, 1995."

Chapter 71 was amended by State Register Volume 20, Issue No. 7, effective July 26, 1996, which provides as follows:

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

"B. In Subarticle 7 (Construction):

"Minimum standard for Safety and Health Regulations for Construction shall be 29 CFR 1926.33, 1926.55, 1926.57, 1926.103, 1926.300 General requirements, 1926.304, 1926.416, 1926.417, 1926.1002 Protective frames (roll-over protective structures, known as ROPS) for wheel-type agricultural and industrial tractors used in construction, 1926.1003 Overhead protection for operators of agricultural and industrial tractors, 1926.1103, 13 Carcinogens, 1926.1104-1926.1116, and Appendix A to Part 1926 as amended in Federal Register, volume 61, number 46, pages 9249 through 9255, dated March 7, 1996."

Chapter 71 was amended by State Register Volume 20, Issue No. 11, effective November 22, 1996 and provides as follows:

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

"B. In Subarticle 7 (Construction):

"1. Minimum standard for Construction shall be 1926.33, 1926.53, 1926.59, 1926.60, 1926.61, 1926.97, 1926.98, 1926.150, 1926.156 through 1926.159, 1926.1071, 1926.1072, 1926.1076, 1926.1080 through 1926.1087, 1926.1090 through 1926.1092, 1926.1102 through 1926.1104, 1926.1106 through 1926.1118, 1926.1127, 1926.1128, 1926.1129, 1926.1144, 1926.1145, 1926.1147, and 1926.1148 as amended in Federal Register, volume 61, number 120, pages 31431 through 31434, dated June 20, 1996.

"2. Minimum standard for Electrical shall be 1926.416 and 1926.417 as amended in Federal Register, volume 61, number 156, pages 41738 and 41739, dated August 12, 1996.

"3. Minimum standard for Asbestos shall be 1926.1101 as amended in Federal Register, volume 61, number 165, pages 43458 through 43459, dated August 23, 1996.

"4. Minimum standard for Scaffolds shall be 1926.Subpart L, as amended in Federal Register, volume 61, number 170, pages 46026 through 46131, dated August 30, 1996."

Chapter 71 was amended by State Register Volume 21, Issue No. 3, effective March 28, 1997 and provides as follows:

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

"B. In Subarticle 7 (Construction):

"1. Minimum standard for Gases, vapors, fumes, dusts, and mists shall be 1926.55, as amended in Federal Register, volume 61, number 214, page 56856, dated November 4, 1996, and volume 62, number 7, page 1619, dated January 10, 1997. The revisions concerning methylene chloride become effective April 10, 1997.

"2. Minimum standard for Scaffolds shall be 1926.451, 1926.453, and Appendix E of Subpart L on scaffolds as amended in Federal Register, volume 61, number 228, pages 59831 and 59832, dated November 25, 1996.

"3. Minimum standard for Methylene chloride shall be 1926.1152, as amended in Federal Register, volume 62, number 7, page 1619, dated January 10, 1997. This standard becomes effective April 10, 1997."

Chapter 71 was amended by State Register Volume 22, Issue No. 4, effective April 24, 1998 and provides as follows:

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

"B. In Subarticle 7 (Construction):

"Minimum standard for related revisions to the Respiratory Protection standard in construction shall be 1926.57, 1926.60, 1926.62, 1926.103, 1926.800, 1926.1101, and 1926.1127 as amended in FEDERAL REGISTER, Volume 63, Number 5, pages 1295 through 1299, dated January 8, 1998."

"Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 22, Issue No. 9, Part 1, effective September 25, 1998, which provides as follows:

"In Subarticle 7 (Construction):

"Minimum standard for Asbestos shall be 1926.1101 as amended in Federal Register, volume 63, number 78, page 20099, dated April 23, 1998, and volume 63, number 124, page 35138, dated June 29, 1998.

"Minimum standard for miscellaneous standards shall be 1926.31, 1926.50, 1926.152, and 1926.906 as amended in Federal Register, volume 63, number 117, pages 33468 and 33469, dated June 18, 1998."

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 23, Issue No. 5, effective May 28, 1999, which provides as follows:

"In Subarticle 7 (Construction):

"Minimum standard for Powered Industrial Trucks shall be 1926.602 as amended in FEDERAL REGISTER, Volume 63, Number 230, page 66274, dated December 1, 1998."

This subarticle was amended in State Register Volume 25, Issue 4, effective April 27, 2001 as follows:

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

"In Subarticle 7 (Construction):

"Minimum standard for Steel Erection shall be 1926. Subpart R with related corrections to 1926.500 as amended in FEDERAL REGISTER, Volume 66, Number 12, pages 5265 through 5280, dated January 18, 2001. The compliance date for this amendment is September 16, 2001."

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 27, Issue No. 3, effective March 28, 2003, which provides as follows:

"In Subarticle 7 (Construction):"

"Minimum standard for Accident Prevention Signs and Tags, Signaling, and Barricades shall be 1926.200–1926.203 as amended in FEDERAL REGISTER, Volume 67, Number 177, page 57736, dated September 12, 2002."

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 29, Issue No. 5, effective May 27, 2005, which provides as follows:

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

''In Subarticle 7 (Construction):

''Minimum standard for Subarticle 7 shall be 1926.307 as amended in FEDERAL REGISTER, Volume 69, Number 110, page 31880–31882, dated June 8, 2004.

''Minimum standard for Subarticle 7 shall be 1926.60 as amended in FEDERAL REGISTER, Volume 69, Number 233, page 70373, dated December 6, 2004.

''Minimum standard for Subarticle 7 shall be 1926.60, 1926.62, 1926.1101, and 1926.1127 as amended in FEDERAL REGISTER, Volume 70, Number 3, page 1111–1114, dated January 5, 2005.''

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 30, Issue No. 5, effective May 26, 2006, which provides as follows:

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

''In Subarticle 7 (Construction):

''Minimum standard for Roll-Over Protective Structures shall be 1926.1001, 1926.1002, and 1926.1003 as amended in FEDERAL REGISTER, Volume 71, Number 39, page 9909, dated February 28, 2006.

''Minimum standard for Occupational Exposure to Hexavalent Chromium (Chromium (VI)) shall be 1926.55, and 1926.1126 as amended in FEDERAL REGISTER, Volume 71, Number 39, pages 10099–10385, dated February 28, 2006.

''Minimum standard for Steel Erection; Slip Resistance of Skeletal Structural Steel shall be 1926.754 and Appendix B as amended in FEDERAL REGISTER, Volume 71, Number 11, pages 2879–2885, dated January 18, 2006.''

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 30, Issue No. 12, effective December 22, 2006, which provides as follows:

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

''In Subarticle 7 (Construction):

''Removal of outdated effective dates and/or startup dates shall be 1926.60, 1926.62, 1926.1101, and 1926.1127, along with removal of 1926.1092, as amended in FEDERAL REGISTER, Volume 70, Number 63, pages 16669–16677, dated April 3, 2006.

''Removal of 1910.1092 of Subpart Y as amended in FEDERAL REGISTER, Volume 70, Number 63, pages 16669–16677, dated April 3, 2006.

''For each of the following paragraphs in parts 1926 ('Occupational Safety and Health Standards'), SCOSHA is removing the reference to SCRR, Chapter 71, 1910.20 and replacing it with a reference to the new designation, SCRR, Chapter 71, 1926.33: 1926.60, 1926.62, 1926.800, and 1926.1101, as amended in FEDERAL REGISTER, Volume 70, Number 63, pages 16669–16677, dated April 3, 2006.

''Minimum standard for Occupational Exposure to Hexavalent Chromium (Chromium (VI)) shall be 1926.1126 as amended in FEDERAL REGISTER, Volume 71, Number 121, pages 36008–36010, dated June 23, 2006.

''Minimum standard for Respiratory Protection shall be 1926.60, 1926.62, 1926.1101, and 1926.1127 as amended in FEDERAL REGISTER, Volume 71, Number 164, pages 50121–50192, dated August 24, 2006.

''Minimum standard for Protective Structures shall be 1926.1002 to include: in Appendix A to subpart W of 1926, remove existing Figures W-14 through W-28 and add in their place new Figures W-14 through W-28.

''Minimum standard for Payment for protective equipment shall be 1926.95 as amended in FEDERAL REGISTER, Volume 72, Number 220, pages 64341–64430, dated November 15, 2007.''

Chapter 71 was amended by State Register Volume 33, Issue No. 3, effective March 27, 2009, which provides as follows:

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

''In Subarticle 7 (Construction):

''Revisions to Sections 1926.20, 1926.60, 1926.62, 1926.761, 1926.1101, 1926.1126, and 1926.1127 as amended in FEDERAL REGISTER, Volume 73, Number 240, pp. 75588 - 75589, dated December 12, 2008. Correction to Section 1926.1101 as published in the FEDERAL REGISTER, Volume 74, No. 6, p. 858, dated January 9, 2009.

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

Chapter 71 was amended by State Register Volume 34, Issue No. 7, effective July 23, 2010, which provides as follows:

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

''In Subarticle 7 (Construction):

''Revisions to Sections 1926.1126 and 1926.754 as amended in FEDERAL REGISTER, Volume 75, No. 94, pp.27428 - 27429, dated May 17, 2010.''

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 35, Issue No. 1, effective January 28, 2011, which provides as follows:

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

"In Subarticle 7 (Construction):

"Removal of 1926.31 — Incorporation by reference and the addition of 1926.6 — Incorporation by reference as amended in FEDERAL REGISTER, Volume 75, Number 152, pages 47905–48177, dated August 9, 2010.

"Amendments to 1926.450, 1926.500, 1926.553, 1926.600, 1926.753, 1926.800, 1926.856, 1926.858, 1926.952, 1926.952, and 1926.1050 as amended in FEDERAL REGISTER, Volume 75, Number 152, pages 47905–48177, dated August 9, 2010.

"Redesignation of 1926.550 — Cranes and Derricks shall be to 1926.1501 and section 1926.550 has been reserved as amended in FEDERAL REGISTER, Volume 75, Number 152, pages 47905–48177, dated August 9, 2010.

"Minimum standard for Cranes and Derricks in Construction shall be 1926 Subpart CC and the minimum standard for Cranes and Derricks Used in Demolition and Underground Construction shall be 1926 Subpart DD as amended in FEDERAL REGISTER, Volume 75, Number 152, pages 47905–48177, dated August 9, 2010.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896–7682."

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

In Subarticle 7 (Construction):

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

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896-5811 or on the OSHA website at www.OSHA.gov. [State Register Volume No. 35, Issue No. 10, eff October 28, 2011]

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

In Subarticle 7 (Construction):

Revisions to Sections 1926.50, 1926.60, 1926.62, 1926.64, 19126.65, 1926.152, 1926.155, 1926.1101, 1926.1126 and 1926.1127 as amended in FEDERAL REGISTER Volume 76, Number 248, pages 80738 through 80741, dated Tuesday, December 27, 2011 and FEDERAL REGISTER Volume 77, Number 58, pages 17764 through 17896, dated Monday, March 26, 2012.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896–5811 or on the OSHA website at www.OSHA.gov. [State Register Volume No. 36, Issue No. 5, eff May 25, 2012]

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 36, Issue No. 11, effective November 23, 2012, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections 1917.3, 1917.93, 1926.6, 1926.100, 1926.251, and paragraphs (z)(3) and (z)(5) of Appendix A to Subpart L of 1926, as amended in Federal Register Volume 77, Number 75, dated Wednesday, April 18, 2012; Federal Register Volume 77, Number 121, dated Friday, June 22, 2012; Federal Register Volume 77, Number 141, page 42988, dated Monday, July 23, 2012; Federal Register Volume 77, Number 152, page 46948, dated Tuesday, August 7, 2012; and Federal Register Volume 77, Number 160, dated Friday, August 17, 2012.

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 37, Issue No. 4, effective April 26, 2013, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections 1926.64, 1926.65, 1926.251 and 1926.1101 as amended in FEDERAL REGISTER Volume 78, Number 27, pages 9311 through 9315, dated Friday, February 8, 2013 and FEDERAL REGISTER Volume 78, Number 32, page 11092, dated Friday, February 15, 2013.

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 37, Issue No. 9, effective September 27, 2013, which provides as follows:

"In Subarticle 7 (Construction): Revisions to Sections 1926.6, 1926.200, 1926.251, 1926.201, 1926.202, 1926.800, 1926.856, 1926.858, 1926.952 and 1926.1400, as amended in Federal Register 78, Number 78 dated Tuesday, April 23, 2013 pages 23837 through 23843, Federal Register 78, Number 103 dated Wednesday, May 29, 2013 pages 32110 through 32116, and Federal Register Volume 78, Number 114 dated Thursday, June 13, 2013 pages 35559 through 35567.

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 38, Issue No. 3, Doc. No. 4458, effective March 28, 2014, which provides as follows:

"In Subarticle 7 (Construction): Revisions to Sections 1926.6, 1926.200, 1926.201 and 1926.202 as amended in Federal Register, Volume 78, No. 114, dated Thursday, June 13, 2013, pages 35559 through 35567; Federal Register, Volume 78, No. 215, dated Wednesday, November 6, 2013, pages 66641 through 66642; and Federal Register, Volume 78, No. 215, dated Wednesday, November 6, 2013, pages 66642 through 66643.

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 38, Issue No. 9, Doc. No. 4486, effective September 26, 2014, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections: 1926.6, 1926.97, 1926.500, 1926.950, 1926.951, 1926.952, 1926.953, 1926.954, 1926.955, 1926.956, 1926.957, 1926.958, 1926.959, 1926.960, 1926.961, 1926.962, 1926.963, 1926.964, 1926.965, 1926.966, 1926.967, 1926.968, Appendix A to Subpart V of Part 1926-Reserved, Appendix B to Subpart V of Part 1926, Working on Exposed Energized Parts, Appendix C to Subpart V of part 1926-Protection from Hazardous Differences in Electric Potential, Appendix D to Subpart V of 1926-Methods of Inspecting and Testing Wood Poles, Appendix E to Subpart V of Part 1926-Protection from Flames and Electric Arcs, Appendix F to Subpart V of Part 1926-Work-positioning Equipment Inspection Guidelines, Appendix G to Subpart V of Part 1926-Reference Documents, 1926.1053, 1926.1400 and 1926.1410

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 39, Issue No. 1, Doc. No. 4561, effective January 23, 2015, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections: 1926.51, 1926.960, 1926.968, 1926.1427, Appendix B to Subpart V of Part 1926."

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 39, Issue No. 8, Doc. No. 4582, effective August 28, 2015, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections: 1926.21, 1926.953, 1926.968, 1926.1200, 1926.1201, 1926.1202, 1926.1203, 1926.1204, 1926.1205, 1926.1206, 1926.1207, 1926.1208, 1926.1209, 1926.1210, 1926.1211, 1926.1212, and 1926.1213, as amended in Federal Register Volume 80, No. 85 dated May 4, 2015 pages 25366 through 25526"

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 40, Issue No. 2, Doc. No. 4644, effective February 26, 2016, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections: 1926.950 and 1926.960, as amended in Final Register Volume 80, No. 192, dated October 5, 2015, pages 60033 through 60040."

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 40, Issue No. 7, Doc. No. 4653, effective July 22, 2016, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections: 1926.6 and 1926.102 as amended in Final Register Volume 81, Number 58, dated March 25, 2016, pages 16092 through 16093

"Revisions to Sections: 1926.55 and 1926.1153 as amended in Final Register Volume 81, Number 58, dated March 25, 2016, pages 16875 through 16890

"Revisions to Sections: 1926.55 as amended in Final Register Volume 81, Number 96, dated May 18, 2016, page 31168 through 31169"

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 41, Issue No. 1, Doc. No. 4742, effective January 27, 2017, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections: 1926.55 as amended in Federal Register Vol. 81, Number 170, Thursday, September 1, 2016."

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register Volume 41, Issue No. 6, Doc. No. 4751, effective June 23, 2017, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections: 1926.55 – Gases, vapors, fumes, dusts, and mists and 1926.1153 - Beryllium as amended in Final Register Volume 82, No. 5, dated January 9, 2017, pages 2750 through 2757."

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register SCSR43-2 Doc. No. 4877, effective February 22, 2019, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections: 1926.1427, and 1926.1430, as amended in Federal Register Volume 83, No. 218 dated November 9, 2018 pages 56244 through 56247."

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register SCSR 43–9 Doc. No. 4906, effective September 27, 2019, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Sections 1926.6 Incorporation by Reference, 1926.50 Medical Services and First Aid, 1926.55 Gases, Vapors, Fumes, Dusts, and Mists, 1926.60 Methylenedianiline, 1926.62 Lead, 1926.64 Process Safety Management of Highly Hazardous Chemicals, 1926.65 HAZWOPER, 1926.104 Safety Belts, Lifelines, and Lanyards, 1926.200 Accident Prevention Signs and Tags, 1926.201 Signaling, 1926.202 Barricades, 1926.203 Definitions, 1926.250 General Requirements for Storage, 1926.800 Underground Construction, 1926.1000 ROPS for Material Handling Equipment, 1926.1001 Minimum Performance Criteria for ROPS, 1926.1002 Protective Frames for Wheel-type Tractors, 1926.1003 Overhead Protection for Tractor Operators, 1926 Subpart W Rollover Protective Structures, 1926.1101 Asbestos, 1926.1126 Chromium (VI), 1926.1127 Cadmium, 1926.1129 Coke Oven Emissions, and 1926.1153 Respirable Crystalline Silica, as amended in Federal Register Volume 84, No. 93 dated May 14, 2019, pages 21574 through 21598."

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

Chapter 71, Article 1, Subarticle 7 was amended by State Register SCSR 44–2 Doc. No. 4961, effective February 28, 2020, which provides as follows:

"In Subarticle 7 (Construction):

"Revisions to Section 1926.1124 Beryllium as amended in Federal Register Volume 84, No. 189, dated September 30, 2019, page 51400."

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

SUBARTICLE 8
SOUTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE OPERATIONS

NOTE—This subarticle is identical to federal regulations contained in 29 CFR 1928, entitled "Occupational Safety and Health Standards for Agriculture", without any modifications.

Editor's Note

Chapter 71 was amended by State Register Volume 18, Issue No. 10, effective October 28, 1994, provides as follows:

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

"C. In Subarticle 8 (Agricultural standards).

"1. Minimum standard for Applicable standards in 29 CFR Part 1910 shall be 29 CFR 1928.21 as amended in Federal Register, volume 59, number 137, page 36700, dated July 19, 1994."

Chapter 71 was amended by State Register Volume 18, Issue No. 12, effective December 23, 1994, provides as follows:

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

"C. In Subarticle 8 (Agricultural standards).

"1. Minimum standard for Applicable standards in 29 CFR Part 1910 shall be 29 CFR 1928.21 as amended in Federal Register, volume 59, number 196, page 51748, dated October 12, 1994. This standard becomes effective February 9, 1995."

Chapter 71 was amended by State Register Volume 20, Issue No. 7, effective July 26, 1996, which provides as follows:

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

"C. In Subarticle 8 (Agriculture):

"Minimum standard for Occupational Safety and Health Standards for Agriculture shall be 29 CFR 1928.21 Applicable standards in 29 CFR part 1910, 1928.51 Roll-over protective structures (ROPS) for tractors used in agricultural operations, 1928.52-1928.53, Appendix B to Subpart C of Part 1928 and 1928.1027 Cadmium as amended in Federal Register, volume 61, number 46, page 9255, dated March 7, 1996."

Chapter 71, Article 1, Subarticle 8 was amended by State Register Volume 30, Issue No. 5, effective May 26, 2006, which provides as follows:

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

"In Subarticle 8 (Agriculture Operations):

"Minimum standard for Roll-Over Protective Structures shall be 1928.52 and 1928.53 as amended in FEDERAL REGISTER, Volume 71, Number 39, page 9909, dated February 28, 2006.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896–7682."

Chapter 71, Article 1, Subarticle 8 was amended by State Register Volume 30, Issue No. 12, effective December 22, 2006, which provides as follows:

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

"In Subarticle 8 (Agriculture Operations):

"Minimum standard for Protective Structures shall be 1928.53 to include: in Appendix B to Subpart C remove existing Figures C-1 through C-16 and add in their place new Figures C-1 through C-16.

"Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896–7682."

Chapter 71, Article 1, Subarticle 8 was amended by State Register Volume 39, Issue No. 1, Doc. No. 4561, eff January 23, 2015, which provides as follows:

"In Subarticle 8 (Agriculture):

"Revision to Section: 1928.110"

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

SUBARTICLE 9
RULES OF AGENCY PRACTICE AND PROCEDURE CONCERNING SOUTH CAROLINA DEPARTMENT OF LABOR, DIVISION OF OCCUPATIONAL SAFETY AND HEALTH ACCESS TO EMPLOYEE MEDICAL RECORDS

Editor's Note

This subarticle became effective on January 15, 1981.

71–900. General Policy.

South Carolina Division of Occupational Safety and Health (SC/OSH) access to employee medical records will in certain circumstances be important to the agency's performance of its statutory functions. Medical records, however, contain personal details concerning the lives of employees. Due to

the substantial personal privacy interests to personally identifiable employee medical information will be exercised only after the agency has made a careful determination of its need for this information, and only with appropriate safeguards to protect individual privacy. Once this information is obtained, SC/OSH examination and use of it will be limited to only that information needed to accomplish the purpose for access. Personally identifiable employee medical information will be retained by SC/OSH only for so long as needed to accomplish the purpose for access, will be kept secure while being used, and will not be disclosed to other agencies or members of the public except in narrowly defined circumstances. This subarticle establishes procedures to implement these policies.

71–901. Scope and Application.

A. Except as provided in paragraphs C through F below, this regulation applies to all requests by SC/OSH personnel and by federal OSHA personnel to obtain access to records in order to examine or copy personally identifiable employee medical information, whether or not pursuant to the access provisions of Article 6, Section 1910.20(e).

B. For the purposes of this subarticle, "personally identifiable employee medical information" means employee medical information accompanied by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used in the particular circumstances indirectly to identify specific employees (e.g., exact age, height, weight, race, sex, date of initial employment, job title, etc.)

C. This subarticle does not apply to OSHA access to, or the use of, aggregate employee medical information or medical records on individual employees which is not in a personally identifiable form. This subarticle does not apply to records required by Subarticle 3, to death certificates, or to employee exposure records, including biological monitoring records treated by Subarticle 6, Section 1910.20(c)(5) or by specific occupational safety and health standards as exposure records.

D. This subarticle does not apply where OSHA compliance personnel conduct an examination of employee medical records solely to verify employer compliance with the medical surveillance record-keeping requirements of an occupational safety and health standard, or with Subarticle 6, Section 1910.20. An examination of this nature shall be conducted on-site, and, if requested, shall be conducted under the observation of the recordholder. The OSHA compliance personnel shall not record and take off-site any information from medical records other than documentation of the fact of compliance or non-compliance.

E. This subarticle does not apply to agency access to, or the use of, personally identifiable employee medical information obtained in the course of litigation.

F. This subarticle does not apply where a written directive by the Commissioner of Labor authorizes appropriately qualified personnel to conduct limited reviews of specific medical information mandated by an occupational safety and health standard, or of specific biological monitoring test results.

G. Even if not covered by the terms of this subarticle, all medically related information reported in a personally identifiable form shall be handled with appropriate discretion and care befitting all information concerning specific employees. There may, for example, be personal privacy interest involved which militate against disclosure of this kind of information to the public.

71–902. Responsible Persons.

A. Commissioner of Labor. The Commissioner of Labor, State of South Carolina, shall be responsible for the overall administration and implementation of the procedures contained in this subarticle, including making final SC/OSH determinations concerning:

(1) Access to personally identifiable employee information (R. 71-903), and

(2) inter-agency and federal agency transfer or public disclosure of personally identifiable employee medical information (R71-912).

B. SC/OSH Medical Records Officer. The Commissioner of Labor shall designate an SC/OSH official with experience or training in the evaluation, use, and privacy protection of medical records to be the SC/OSH Medical Records Officer. The SC/OSH Medical Records Officer shall report directly to the Commissioner of Labor on matters concerning this subarticle and shall be responsible for:

(1) making recommendations to the Commissioner of Labor as to the approval or denial of written access orders (R. 71-903),

(2) assuring that written access orders meet the requirements of R. 71-903B and R. 71-903C of this subarticle,

(3) responding to employee collective bargaining agent, and employer objections concerning written access orders (R. 71-905),

(4) regulating the use of direct personal identifiers (R. 71-906),

(5) regulating internal agency use and security of personally identifiable employee medical information (R. 71-907 through R. 71-909),

(6) assuring that the results of agency analyses of personally identifiable medical information are, where appropriate, communicated to employees (R. 71-910),

(7) preparing an annual report of SC/OSH's experience under this subarticle (R. 71-911), and

(8) assuring that advance notice is given of intended inter-agency or federal agency transfers or public disclosures (R. 71-912).

C. Principal SC/OSH Investigator. The Principal SC/OSH Investigator shall be the SC/OSH employee in each instance of access to personally identifiable employee medical information who is made primarily responsible for assuring that the examination and use of this information is performed in the manner prescribed by a written access order and the requirements of this subarticle (R. 71-904 through R. 71-912). When access is pursuant to a written access order, the Principal SC/OSH Investigator shall be professionally trained in medicine, public health, or allied fields (epidemiology, toxicology, industrial hygiene, biostatistics, environmental health, etc.).

71–903. Written Access Orders.

A. Requirement for written access order. Except as provided in paragraph D of this regulation, each request by an SC/OSH or federal OSHA representative to examine or copy personally identifiable employee medical information contained in a record held by an employer or other recordholder shall be made pursuant to a written access order which has been approved by the Commissioner of Labor upon the recommendation of the SC/OSH Medical Records Officer. If deemed appropriate, a written access order may constitute, or be accompanied by, an administrative subpoena.

B. Approval criteria for written access order. Before approving a written access order, the Commissioner of Labor and the SC/OSH Medical Records Officer shall determine that:

(1) The medical information to be examined or copied is relevant to a statutory purpose and there is a need to gain access to this personally identifiable information, and

(2) the personally identifiable medical information to be examined or copied is limited to only that information needed to accomplish the purpose for access, and

(3) the personnel authorized to review and analyze the personally identifiable medical information are limited to those who have a need for access and have appropriate professional qualifications.

C. Content of written access order. Each written access order shall state with reasonable particularity:

(1) The statutory purpose for which access is sought,

(2) A general description of the kind of employee medical information that will be examined and why there is a need to examine personally identifiable information,

(3) Whether medical information will be examined on-site, and what type of information will be copied and removed off-site,

(4) The name, address, and phone number of the Principal SC/OSH Investigator or federal Principal OSHA Investigator and the names of any other authorized persons who are expected to review and analyze the medical information,

(5) The name, address, and phone number of the SC/OSH Medical Records Officer or the federal OSHA Medical Records Officer, and

(6) The anticipated period of time during which SC/OSH or federal OSHA expects to retain the employee medical information in a personally identifiable form.

D. Special situations. Written access orders need not be obtained to examine or copy personally identifiable employee medical information under the following circumstances:

(1) Specific written consent. If the specific written consent of an employee is obtained pursuant to Subarticle 6, Section 1910.20(e)(2)(ii), and the agency or an agency employee is listed on the authorization as the designated representative to receive the medical information, then a written access order need not be obtained. Whenever personally identifiable employee medical information is obtained through specific written consent and taken off-site, a Principal SC/OSH Investigator shall be promptly named to assure protection of the information, and the SC/OSH Medical Records Officer shall be notified of this person's identify. The personally identifiable medical information obtained shall thereafter be subject to the use and security requirements of R. 71-907 through R. 71-912 of this subarticle.

(2) Physician consultations. A written access order need not be obtained where an SC/OSH or federal OSHA staff or contact physician consults with an employee's physician concerning an occupational safety and health issue. In a situation of this nature, the SC/OSH or federal OSHA physician may conduct on-site evaluation of employee medical records in consultation with the employer's physician, and may make necessary personal notes of his or her findings. No employee medical records, however, shall be taken off-site in the absence of a written access order or the specific written consent of an employee, and no notes of personally identifiable employee medical information made by the SC/OSH or federal OSHA physician shall leave his or her control without the permission of the SC/OSH Medical Records Officer.

71–904. Presentation of Written Access Order and Notice to Employees.

A. The Principal SC/OSH Investigator, or someone under his or her supervision, shall present at least two (2) copies each of the written access order and an accompanying cover letter to the employer prior to examining or obtaining medical information subject to a written access order. At lease one copy of the written access order shall not identify specific employees by direct personal identifier. The accompanying cover letter shall summarize the requirements of this subarticle and indicate that questions or objections concerning the written access order may be directed to the Principal SC/OSH Medical Records Officer.

B. The Principal SC/OSH Investigator shall promptly present a copy of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover to each collective bargaining agent representing employees whose medical records are subject to the written access order.

C. The Principal SC/OSH Investigator shall indicate that the employer must promptly post a copy of the written access order which does not identify specific employees by direct personal identifier, as well as post its accompanying cover letter (See Subarticle 6, Section 1910.20(e)(3)(ii)).

D. The Principal SC/OSH Investigator shall discuss with any collective bargaining agent and with the employer the appropriateness of individual notice to employees affected by the written access order. Where it is agreed that individual notice is appropriate, the Principal SC/OSH Investigator shall promptly provide to the employer an adequate number of copies of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover letter to enable the employer either to individually notify each employee or to place a copy in each employee's medical file.

71–905. Objections concerning a Written Access Order.

All employee, collective bargaining agent, and employer written objections concerning access to records pursuant to a written access order shall be transmitted to the SC/OSH Medical Records Officer. Unless the agency decides otherwise, access to the records shall proceed without delay notwithstanding the lodging of an objection. The SC/OSH Medical Records Officer shall respond in writing to each employee's written objection to OSHA access. Where appropriate, the SC/OSH Medical Records Officer may revoke a written access order and direct that any medical information obtained by it be returned to the original recordholder or destroyed. The Principal SC/OSH Investigator shall assure that such instructions by the SC/OSH Medical Records Officer are promptly implemented.

71–906. Removal of Direct Personal Identifiers.

Whenever employee medical information obtained pursuant to a written access order is taken off-site with direct personal identifiers included, the Principal SC/OSH Investigator shall, unless otherwise authorized by the SC/OSH Medical Records Officer, promptly separate all direct personal identifiers from the medical information, and code the medical information and the list of direct identifiers with a unique identifying number for each employee. The medical information with its numerical code shall thereafter be used and kept secured as though still in a directly identifiable form. The Principal SC/OSH Investigator shall also hand deliver or mail the list of direct personal identifiers with their corresponding numerical codes to the SC/OSH Medical Records Officer. The SC/OSH Medical Officer shall thereafter limit the use and distribution of the list of coded identifiers to those with a need to know its contents.

71–907. Internal Agency Use of Personally Identifiable Employee Medical Information.

A. The Principal SC/OSH Investigator shall in each instance of access be primarily responsible for assuring that personally identifiable employee medical information is used and kept secured in accordance with this Article.

B. The Principal SC/OSH Investigator, the SC/OSH Medical Records Officer, the Commissioner of Labor, and any other authorized person listed on a written access order may permit the examination or use of personally identifiable employee medical information by agency employees and contractors who have a need for access, and appropriate qualifications for the purpose for which they are using the information. No SC/OSH or federal OSHA employee or contractor is authorized to examine or otherwise use personally identifiable employee medical information unless so permitted.

C. Where a need exists, access to personally identifiable employee medical information may be provided to attorneys in the South Carolina Attorney General's Office and in the Office of the Solicitor of the U.S. Department of Labor, and to agency contractors who are physicians or who have contractually agreed to abide by the requirements of this subarticle and implementing agency directives and instructions.

D. SC/OSH and federal OSHA employees and contractors are only authorized to use personally identifiable employee medical information for the purpose for which it was obtained, unless the specific written consent of an employee is obtained as to a secondary purpose, or the procedures of R. 71-903 through R. 71-906 of this subarticle are repeated with respect to the secondary purpose.

E. Whenever practicable, the examination of personally identifiable employee medical information shall be performed on-site with a minimum of medical information taken off-site in a personally identifiable form.

71–908. Security Procedures.

A. Agency files containing personally identifiable employee medical information shall be segregated from other agency files. When not in active use, files containing this information shall be kept secured in a locked cabinet or vault.

B. The SC/OSH Medical Records Officer and the Principal SC/OSH Investigator shall each maintain a log of uses and transfers of personally identifiable employee medical information and lists of coded direct personal identifiers, except as to necessary uses by staff under their direct personal supervision.

C. The photocopying or other duplication of personally identifiable employee medical information shall be kept to the minimum necessary to accomplish the purposes for which the information was obtained.

D. The protective measures established by the subarticle apply to all worksheets, duplicated copies, or other agency documents containing personally identifiable employee medical information.

E. Intra-agency transfers of personally identifiable employee medical information shall be by hand delivery, United State mail, or equally protective means. Inter-office mailing channels shall not be used.

71–909. Retention and Destruction of Records.

A. Consistent with SC/OSH record disposition procedures, personally identifiable employee medical information and list of coded direct personal identifiers shall be destroyed or returned to the original recordholder when no longer needed for the purposes for which they were obtained.

B. Personally identifiable employee medical information which is currently not being used actively but may be needed for future use shall be transferred to the SC/OSH Medical Records Officer. The SC/OSH Medical Records Officer shall conduct an annual review of all centrally-held information to determine which information is no longer needed for the purposes for which it was obtained.

71–910. Results of an Agency Analysis Using Personally Identifiable Employee Medical Information.

The SC/OSH Medical Record Officer shall, as appropriate, assure that the results of an agency analysis using personally identifiable employee medical information are communicated to the employees whose personal medical information was used as a part of the analysis.

71–911. Annual Reports.

The SC/OSH Medical Records Officer shall on an annual basis review SC/OSH's experience under this subarticle during the previous year, and prepare a report to the Commissioner of Labor which shall be made available to the public. This report shall discuss:

(1) the number of written access orders approved and a summary of the purposes for access,

(2) the nature and disposition of employee, collective bargaining agent, and employer written objections concerning SC/OSH access to personally identifiable employee medical information, and

(3) the nature and disposition of requests for inter-agency transfer or public disclosure of personally identifiable employee medical information.

71–912. Inter–Agency Transfer and Public Disclosure.

A. Personally identifiable employee medical information shall not be transferred to another agency or office outside of SC/OSH or disclosed to the public (other than to the affected employee or the original recordholder) except when required by law or when approved by the Commissioner of Labor.

B. Except as provided in paragraph C below, the Commissioner of Labor shall not approve a request for an inter-agency transfer of personally identifiable employee medical information, which has not been consented to by the affected employees, unless the request is by a public health agency which:

(1) needs the requested information in a personally identifiable form for a substantial public health purpose,

(2) will not use the requested information to make individual determinations concerning affected employees which could be to their detriment,

(3) has regulations or established written procedures providing protection for personally identifiable medical information substantially equivalent to that of this subarticle, and

(4) satisfies an exemption to the Privacy Act to the extent that the Privacy Act applies to the requested information (See 5 U.S.C. 552).

C. Upon the approval of the Commissioner of Labor, personally identifiable employee medical information may be transferred to:

(1) federal OSHA,

(2) the National Institute for Occupational Safety and Health (NIOSH),

(3) the South Carolina Attorney General's Office with respect to a specific action under South Carolina Statutes, and

(4) the U.S. Department of Justice with respect to a specific action under the Occupational Safety and Health Act or Privacy Act.

D. The Commissioner of Labor shall not approve a request for public disclosure of employee medical information containing direct personal identifiers unless there are compelling circumstances affecting the health or safety of an individual.

E. The Commissioner of Labor shall not approve a request for public disclosure of employee medical information which contains information which could reasonably be used indirectly to identify specific employees when the disclosure would constitute a clearly unwarranted invasion of personal privacy (See 5 U.S.C. 552(b)(6)).

F. Except as to inter-agency transfers as stated in paragraph C above, the SC/OSH Medical Records Officer shall assure that advance notice is provided to any collective bargaining agent representing affected employees and to the employer on each occasion that SC/OSH intends to either transfer personally identifiable employee medical information to another agency or disclose it to a member of the public other than to an affected employee. When feasible, the SC/OSH Medical Records Officer shall take reasonable steps to assure that advance notice is provided to affected employees when the employee medical information to be transferred or disclosed contains direct personal identifiers.

SUBARTICLE 10
DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE SOUTH CAROLINA OCCUPATIONAL SAFETY AND HEALTH ACT

Editor's Note

This subarticle became effective April 1, 1980.

71–1001. Introductory Statement.

A. The South Carolina Occupational Safety and Health Act, Section 41-15-210 et. seq., Code of Laws of South Carolina, 1976, hereinafter referred to as the Act, is a State statute of general application designed to regulate employment conditions relating to occupational safety and health and to achieve safer and healthier workplaces throughout the State. Also under Section 41-15-80 et. seq., Code of Laws of South Carolina, 1976, every person who has employees is required to furnish each of his employees employment and a place of employment free from recognized hazards that are causing or likely to cause death or serious physical harm, and, further, to comply with occupational safety and health standards promulgated under the Act.

B. The Act provides, among other things, for the adoption of occupational safety and health standards, inspections and investigations of workplaces, and recordkeeping requirements. Enforcement procedures initiated by the Department of Labor, review proceedings before the Commissioner of Labor and his designated hearing officers, and express judicial review are provided under the Act. The Act reflects the General Assembly's policy of maintaining a state occupational safety and health program under the federal Occupational Safety and Health Act of 1970, 29 U.S.C. Section 651 et seq.

C. Employees and representatives of employees are afforded a wide range of substantive and procedural rights under the Act. Moreover, effective implementation of the Act and achievement of its goals depend in large part upon the active but orderly participation of employees, individually and through their representatives at every level of safety and health activity.

D. This subarticle deals essentially with the rights of employees afforded under Section 41-15-510, Code of Laws of South Carolina, 1976. Section 41-15-510 prohibits reprisals, in any form, against employees who exercise rights under the Act.

E. The South Carolina Occupational Safety and Health Program receives funding from the federal government and is subject to continuing evaluation by the United States Department of Labor. This subarticle, which is parallel to the federal anti-discrimination regulations, 29 CFR Part 1977, is thus promulgated to maintain compliance with federal law, including the grant program established by 29 U.S.C. Section 672(g).

71–1002. Purpose Of This Subarticle.

The purpose of this subarticle is to make available in one place interpretations of the various provisions of Section 41-15-510 which will guide the Commissioner of Labor, his agents and designees in the performance of their duties thereunder unless and until otherwise directed by authoritative decisions of the courts, or concluding, upon reexamination of an interpretation, that it is incorrect.

71–1003. Requirements of Sections 41–15–510 and 41–15–520.

A. Section 41-15-510 provides in general that no person shall discharge or in any manner discriminate against any employee because the employee has:

(1) Filed any complaint under or relating to the Act;

(2) Instituted or caused to be instituted any proceeding under or relating to the Act;

(3) Testified or is about to testify in any proceeding under or relating to the Act; or

(4) Exercised on his own behalf or on behalf of others any right afforded by the Act.

B. Section 41-15-520 provides that any employee who believes that he has been discriminated against in violation of Section 41-15-510 may, within 30 days after such violation occurs, lodge a complaint with the Commissioner of Labor alleging such violation. The Commissioner of Labor shall then cause appropriate investigation to be made. If, as a result of such investigation, the Commissioner determines that the provisions of Section 41-15-510 have been violated, civil action may be instituted in the appropriate Court of Common Pleas, to restrain violations of Section 41-15-510 and to obtain other appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay.

71–1004. Persons Prohibited from Discriminating.

Section 41-15-510 specifically states that "no person shall discharge or in any manner discriminate against any employee" because the employee has exercised rights under the Act. The term "person" is used here in the same sense as in Section 11(c) of the federal OSHA Act, 29 U.S.C. Section 660(c), and is defined in 29 U.S.C. Section 652(4) as "one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any group of persons". Consequently, the prohibitions of Section 11(c) are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. Section 41-15-510 would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any person in a position to discriminate against an employee. See Meek v. United States, 136 F.2d 679 (6th Cir., 1943); Bowe v. Judson C. Burns, 137 F.2d 37 (3rd Cir., 1943).

71–1005. Persons Protected by Section 41–15–510.

A. All employees are afforded the full protection of Section 41-15-510. The Act does not define the term "employee". However, the broad remedial nature of this legislation demonstrates a clear legislative intent that the existence of an employment relationship, for purposes of Section 41-15-510, is to be based upon economic realities rather than upon common law doctrines and concepts. See U.S. v. Silk, 331 U.S. 704 (1947); Rutherford Food Corporation v. McComb, 331 U.S. 722 (1947).

B. For purposes of Section 41-15-510, even an applicant for employment could be considered an employee. See NLRB v. Lamar Creamery, 246 F.2d 8 (5th Cir., 1957). Further, because Section 41-15-510 speaks in terms of any employee, it is also clear that the employee need not be an employee of the discriminator. The principal consideration would be whether the person alleging discrimination was an "employee" at the time of engaging in protected activity.

C. Section 41-15-210 makes it clear that the protection of the Act extends to employees in both the public and private sectors. Employees of the State, its departments and political subdivisions, as well as employees of municipalities and other governmental entities, are protected by Section 41-15-510.

71–1006. Unprotected Activities Distinguished.

A. Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The proscriptions of Section 41-15-510 apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Act does not automatically render him immune from discharge or discipline for legitimate reasons, or from adverse action dictated by non-prohibited considerations. See NLRB v. Dixie Motor Coach Corp., 128 F.2d 201 (5th Cir., 1942).

B. At the same time, to establish a violation of Section 41-15-510, the employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place "but for" engagement in protected activity, Section 41-15-510 has been violated. See Mitchell v. Goodyear Tire & Rubber Co., 278 F.2d 562 (8th cir., 1960); Goldberg v. Bama Manufacturing, 302 F.2d 152 (5th Cir., 1962). Ultimately, the issue as to whether a discharge

was because of protected activity will have to be determined on the basis of the facts in the particular case.

71–1009. Complaints Under or Relating to the Act.

A. Discharge of, or discrimination against, an employee because the employee has filed "any complaint. . . under or relating to" occupational safety and health statutes, rules, or regulations is prohibited by Section 41-15-510. An example of a complaint made "under" the Act would be an employee request for inspection pursuant to Section 41-15-260. However, this would not be the only type of complaint protected by Section 41-15-510. The range of complaints "relating to" the Act is commensurate with the broad remedial purposes of this legislation and the sweeping scope of its application, which entails the full extent of the State's police power. (Cf. Cong. Rec., vol. 116 p. 42206 Dec. 17, 1970).

B. Complaints registered with other State agencies which have the authority to regulate or investigate occupational safety and health conditions are complaints "relating to" this Act. Likewise, complaints made to Federal or local agencies regarding occupational safety and health conditions would be "relating to" the Act. Such complaints, however, must relate to conditions at the workplace, as distinguished from complaints touching only upon general public safety and health.

C. Further, the salutory principles of the Act would be seriously undermined if employees were discouraged from lodging complaints about occupational safety and health matters with their employers. Such complaints to employers, if made in good faith, therefore would be relating to the Act, and an employee would be protected against discharge or discrimination caused by a complaint to the employer.

71–1010. Proceedings Under or Relating to the Act.

A. Discharge of, or discrimination against, any employee because the employee has "instituted, or caused to be instituted, any proceeding under or relating" to job safety and health is also prohibited by Section 41-15-510. Examples of proceedings which could arise specifically under the occupational safety and health statutes, rules, or regulations would include, but not necessarily be limited to, the following: inspections of worksites under Section 41-15-260 of the Act; proceedings to contest any citation, penalty, period of abatement, or other acts of the Commissioner under Section 41-15-310; proceedings to revoke or modify a variance under Section 41-15-250; proceedings for a writ of mandamus concerning imminently dangerous conditions under Section 41-15-290(d); proceedings before the courts of common pleas for review of any order or findings of the Commissioner under Section 41-15-310; proceedings in opposition to a modification of an abatement period under R. 71-405(C) of Subarticle 4; informal conferences under R. 71-406 of Subarticle 4; and, of course, proceedings to remedy prior discrimination under Section 41-15-520 of the Act.

B. Section 41-15-510 also protects employees who bring about proceedings "relating to" occupational safety and health statutes, rules, or regulations. A wide variety of proceedings in addition to those set forth above relate to job safety and or health. Such proceedings would include, but not be limited to, federal proceedings under the Occupational Safety and Health Act of 1970, 29 U.S.C. Section 651 et. seq., proceedings by other State agencies with jurisdiction over safety and health matters affecting employees, proceedings involving the Department of Labor or allied agencies under the general administrative law of the State (e.g., Section 1-23-150 or 30-4-30(c), Code of Laws of South Carolina, 1976, as amended), and any private legal remedies which an employee may have. The determination of whether any other proceeding relates to job safety or health must be made on a case-by-case basis. The considerations discussed in R. 71-1009 would be applicable.

71–1011. Testimony.

Discharge of, or discrimination against, any employee because the employee has "testified, or is about to testify" in proceedings under or relating to the Act is also prohibited by Section 41-15-510. This protection would, of course, not be limited to testimony in proceedings instituted or caused to be instituted by the employee, but would extend to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, and administrative rule making or adjudicative functions. If the employee is giving or is about to give testimony in any proceeding under or relating to the Act, he would be protected against discrimination resulting from such testimony.

71–1012. Exercise Of Any Right Afforded By The Act.

A. In addition to protecting employees who file complaints, institute proceedings, or testify in proceedings under or relating to the Act, Section 41-15-510 also protects employees from discrimination occurring because of the exercise "of any right afforded by such statutes, rules, or regulation". Certain rights are explicitly provided in the statutes, rules, or regulations; for example, there is a right to participate as a party in enforcement proceedings (See R. 71-410K of Subarticle 4). Certain other rights exist by necessary implication. For example, employees may request information from the Division of Occupational Safety and Health: such requests would constitute the exercise of a right afforded by the Act. Likewise, employees interviewed by agents of the Commissioner in the course of inspections or investigations could not subsequently be discriminated against because of their cooperation.

B.(1) On the other hand, review of the Act and examination of the legislative history discloses that, as a general matter, there is no right afforded by the Act which would entitle employees to walk off the job because of potential unsafe conditions at the workplace. Hazardous conditions which may be violative of the Act will ordinarily be corrected by the employer, once brought to his attention. If corrections are not accomplished, or if there is dispute about the existence of a hazard, the employee will normally have an opportunity to request inspection of the workplace pursuant to Section 41-15-260 of the Act, or to seek the assistance of other public agencies which have responsibility in the field of safety and health. Under such circumstances, therefore, an employer would not ordinarily be in violation of Section 41-15-510 by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.

(2) However, occasions might arise when an employee is confronted with a choice between not performing assigned tasks and subjecting himself to serious injury or death arising from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself to the dangerous condition, he would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the same circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must also have sought from his employer, and been unable to obtain, a correction of the dangerous condition.

71–1015. Filing Of Complaint For Discrimination.

A. Who may file. A complaint of Section 41-15-510 discrimination may be filed by the employee himself, or by a representative authorized to do so on this behalf.

B. Nature of filing. No particular form of complaint is required.

C. Place of filing. Complaint should be filed with the Commissioner of Labor, Post Office Box 11329, Columbia South Carolina 29211.

D. Time for filing. (1) Section 41-15-520 provides that an employee who believes that he has been discriminated against in violation of Section 41-15-510 "may, within 30 days after such violation occurs," file a complaint with the Commissioner of Labor.

(2) A major purpose of the 30-day period in this provision is to allow the Commissioner to decline to entertain complaints which have become stale. Accordingly complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely.

(3) However, there may be circumstances which would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action; where the employee has, within the 30-day period, resorted in good faith to grievance-arbitration proceedings under a collective bargaining agreement or filed a complaint regarding the same general subject with another agency; or where the discrimination is in the nature of a continuing violation. In the absence of circumstances justifying a tolling of the 30-day period, untimely complaints will not be processed.

71–1016. Investigation Of Complaint.

If the Commissioner or his designee determines that a complaint appears to allege discrimination on the basis of activity protected by Section 41-15-510, he shall cause an investigation to be made of the facts relating to such alleged discrimination. The Commissioner or his designee shall utilize any powers granted by statute in aid of such investigations, including but not limited to the use of subpoenas, entry upon premises, and other powers set forth in Section 41-3-110, Code of Laws of South Carolina, 1976.

71–1017. Withdrawal Of Complaint.

Enforcement of the provisions of Section 41-15-510 is not only a matter of protecting rights of individual employees, but also of public interest. Attempts by an employee to withdraw previously filed complaint will not necessarily result in termination of the Commissioner's investigation. The Commissioner's jurisdiction cannot be foreclosed as a matter of law by unilateral action of the employee. However, a voluntary and uncoerced request from a complainant to withdraw his complaint will be given careful consideration and substantial weight as a matter of policy and sound enforcement procedure.

71–1018. Arbitration Or Other Agency Proceedings.

A. General.

(1) An employee who files a complaint under Section 41-15-510 of the Act may also pursue remedies under grievance arbitration proceedings in collective bargaining agreements. In addition, the complainant may concurrently resort to other agencies for relief, such as the National Labor Relations Board. The Commissioner's jurisdiction to entertain Section 41-15-510 complaints, to investigate, and to determine whether discrimination has occurred, is independent of the jurisdiction of other agencies or bodies. The Commissioner may file action in the Court of Common Pleas regardless of the pendency of other proceedings.

(2) However, the Commissioner also recognizes the State and national policies favoring voluntary resolution of disputes under the procedures in collective bargaining agreements. See e.g., Boy's Markets, Inc. v. Retail Clerks, 398 U.S. 235 (1970); Republic Steel Corp. v. Maddox, 379 U.S. 650 (1965); Carey v. Westinghouse Electric Co., 375 U.S. 261 (1964); Collier Insulated Wire, 192 NLRB No. 150 (1971). Cf. Section 41-17-10 et. seq., Code of Laws of South Carolina, 1976. By the same token, due deference should be paid to the jurisdiction of other forums established to resolve disputes which may also be related to Section 41-15-510.

(3) Where a complainant is in fact pursuing remedies other than those provided by Section 41-15-510, postponement of the Commissioner's determination and deferral to the results of such proceedings may be in order. See Burlington Truck Lines, Inc., v. U.S., 371 U.S. 156 (1962).

B. Postponement of determination. Postponement of determination would be justified where the rights asserted in other proceedings are substantially the same as rights under Section 41-15-510 and those proceedings are not likely to violate the rights guaranteed by Section 41-15-510. The factual issues in such proceedings must be substantially the same as those raised by Section 41-15-510 complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination. See Rios v. Reynolds Metals Co., F.2d (5th Cir., 1972), 41 U.S.L.W. 1049 (Oct. 10, 1972); Newman v. Avco Corp., 451 F.2d 743 (6th Cir., 1971).

C. Deferral to outcome of other proceedings. A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicatory hearing thereof, such dismissal will not ordinarily be regarded as determinative of the Section 41-15-510 complaint.

71–1019. Walkaround Pay Disputes.

The Commissioner recognizes the essential nature of employee participation on walkaround inspections under Section 41-15-260 of the Act. Employees constitute a vital source of information to representatives of the Commissioner concerning the presence of workplace hazards. Employees should

be able to freely exercise their statutory right to participate in walkarounds without fear of economic loss, such as the denial of pay for the time spent assisting OSHA compliance personnel during workplace inspections. Moreover, the employer is prohibited by statute from withholding wages or benefits for the time an employee is engaged in walkaround accompaniment, Section 41-3-70, Code of Laws of South Carolina, 1976. Therefore, in order to insure the unimpeded flow of information to the Commissioner's inspectors, as well as the unfettered statutory right of employees to participate in walkaround inspections, an employer's failure to pay employees for time during which they are engaged in walkaround inspections is discriminatory under Section 41-15-510.

71–1020. Employee Refusal To Comply With Safety Rules.

Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety and health rules and regulations will not ordinarily be regarded as discriminatory action prohibited by Section 41-15-510. This situation should be distinguished from refusals to work, as discussed in R. 71-1012 of this subarticle.

71–1021. Federal Jurisdiction.

A. The provisions of Section 41-15-510 and of this subarticle do not divest the United States Secretary of Labor or federal district courts of jurisdiction over employee complaints of discrimination under 29 U.S.C. Section 660(c). However, the United States Department of Labor may refer complaints alleging such discrimination to the South Carolina Department of Labor for investigation and appropriate action. Such complaints shall be evaluated (and, if appropriate, investigated and prosecuted) in the same manner as complaints of similar nature filed initially with the State. In such cases, the date of filing with the United States Department of labor shall be considered the filing date for purposes of the 30-day limitation in Section 41-15-520 (See R. 1015D(3) of this subarticle).

B. Because the provisions of this subarticle are designed to provide protection for employees parallel to that provided in 29 CFR Part 1977, federal evaluation and investigate of a discrimination complaint would normally be expected to result in the same determination as that made by the State. In certain circumstances, however, federal law may provide more adequate protection for the affected employee. The Commissioner of Labor may, in his discretion, refer complaints to the United States Department of Labor for investigation or prosecution where the affected employee would be more adequately protected thereby. In such cases, deference to the federal investigation or prosecution should be guided by the considerations discussed in R. 71-1018 of this subarticle.

Subarticle 11
Rules of Agency Practice and Procedure Concerning South Carolina Department of Labor, Division of Occupational Safety and Health Disclosure Policy and Confidentiality of Trade Secrets

Editor's Note

This subarticle became effective on December 3, 1980.

71–1100. General Policy.

All information reported to or otherwise obtained by the Commissioner of Labor or his representatives in performing their statutory duties within the South Carolina Division of Occupational Safety and Health (SC/OSH) which contains or which might reveal sensitive information shall be strictly controlled. Trade secrets shall be considered confidential and shall not be revealed in any manner whatever. In any proceedings involving the inspection of an employer's establishment, the issuance of a citation, the contest of a citation or the review of a determination of the Commissioner of Labor, the Commissioner or the Circuit Court shall issue such order as may be necessary or appropriate to effectively protect the confidentiality of sensitive material and trade secrets. For disclosure of medical and exposure records refer to Subarticle 6, Section 1910.20 and Subarticle 9.

71–1101. Definitions.

A. "Sensitive Material"—Sensitive material shall include witness identity, witness statements, complainant identity, financial statements of employers, accident and injury records maintained by the

employer (excluding medical and exposure records), consultation reports, discrimination files, correspondence and work product of legal counsel, and other information as deemed "sensitive" by the Commissioner of Labor.

B. "Trade Secret"—Trade secret shall be defined as an unpatented, secret, commercially valuable plan, appliance, formula, or process which is used in the making, preparing, compounding, treating or processing of articles or materials which are trade commodities and which is generally recognized as confidential by the employer.

C. "Trade Secret Material"—Trade secret material shall include records, plans, descriptions, diagrams, photographs, formula, physical samples, recordings or other physical manifestation by which the identity of a trade secret may be transmitted from one person to another. For the purposes of this regulation, trade secret materials specifically include, but are not limited to, inspection notes and diagrams, samples, preliminary and final investigatory documents, laboratory analysis (including, but not limited to, chromatograms and spectrograms) and other working papers constituting work product of SC/OSH inspection and enforcement officials which contain information which could reveal the existence or nature of a trade secret.

D. "Submitter"—A submitter shall be defined as any person from whom trade secret material is obtained, either voluntarily or involuntarily, regardless of whether or not said person owns the trade secret or is using it under license.

71–1102. Disclosure Other Than Trade Secrets.

A. All Occupational Safety and Health (OSH) files will become available for public viewing after the employer has acknowledge receipt of the citation or after a decision has been made not to issue a citation. No OSH file will be available for viewing until such time as an employer has acknowledged receipt of the citation.

B. No documents may be disclosed in so far as they reveal sensitive material.

C. When any OSH citation is protested and until a final order is entered, documents from the OSH file will be released pursuant to Subarticle 4 of this Article.

D. Witness identity and witness statements, complainants' identity, financial statements, and accident or injury records maintained by the employer are exempted from disclosure.

E. OSH consultation, both verbal and written reports of findings and recommendations, are provided only to the employer requesting consultation are exempted from disclosure.

F. All OSH discrimination files are confidential and may be released only to the employee bringing the action or to the authorized representative of that employee and are exempted from disclosure.

G. All attorney working papers, opinions, and other correspondence and work product of legal counsel are exempted from disclosure.

H. Records of the Administrative Review Procedure maintained by the Administrative Law Clerk are not exempted from disclosure.

71–1103. Examination Of Disclosure Material.

A. All OSH files which are available for public viewing as prescribed in R. 71-1102 may be viewed in the offices of the Department of Labor during normal business hours. All requests for OSH files shall be directed to the Director of the Office of Public Information, South Carolina Department of Labor, P.O. Box 11329, Columbia, South Carolina 29211.

B. Persons desiring to view four (4) or less OSH files during a single visit shall advise the Office of Public Information, in writing, at least 24 hours prior to the time they desire to view such files. Persons desiring to view five (5) or more files during a single visit shall advise the Office of Public Information, in writing at least 72 hours (3 working days) prior to the time they desire to view such files. Request for OSH files shall specifically identify company, division, and location of business or plant of each desired OSH file.

C. Persons desiring OSH files which are on microfiche (microfilm) or photographs which must be printed shall allow a reasonable amount of time for such work to be performed dependent upon the availability of specialists required to produce such work.

D. Copies of material in OSH files are subject to a research and operator charge for each file plus a set fee schedule for each page and photograph. Such charge and fees shall be paid in advance. The research and operator charges plus the fee schedule can be obtained by telephone, or in writing, from the Office of Public Information.

71–1104. Designation Of Trade Secrets.

A. At any time during the conduct of an inspection or at such other times as the Department of Labor may request information from an employer, the employer may identify areas of its establishment or material which contains or which might reveal a trade secret. If the Department of Labor representative requesting access to such areas of the establishment or material has no clear reason to question such identification, all such material and all information obtained within such areas shall be conspicuously labeled "confidential -trade secret" and shall be treated as prescribed in this section. In determining whether the area or material in question contains a valid trade secret, the following should be considered:

(1) the definition contained in R. 71-1101B; and

(2) the steps taken by employer to protect or limit access to the area or material.

B. In the event that the Department of Labor representative requesting access to an area or to specific material allegedly containing trade secrets does not agree with the employer's trade secret claim, the employer may appeal this decision in writing to the Commissioner or his designee within the South Carolina Department of Labor. The employer shall have an opportunity to present his position to the Commissioner (or his designee) who will made a de novo determination as to whether or not the Department will treat the material as trade secret material. The trade secret status shall be freely granted to any material claimed to be such by an employer unless there is clear and convincing evidence for denying such status.

C. If trade secret status is denied by the Commissioner (or his designee), he shall articulate his reasons for refusing such designation in a confidential written opinion. This decision shall be considered final agency action for purposes of review under the Administrative Procedure Act.

D. A dispute as to the designation of material such as trade secret material shall not be grounds for an employer to refuse an otherwise valid request for access to material or areas of their establishment. During the pendency of a dispute concerning the trade secret status of material, such material shall be temporarily designated as trade secrets and shall be protected as herein provided.

71–1105. Internal Security Measures.

A. All trade secret material other than samples submitted for laboratory analysis which are prepared or obtained by or for representatives of the Department of Labor shall be marked as such, catalogued and filed in a secure place separate from regular, non-secret files and documents.

B. All trade secret material other than samples submitted for laboratory analysis shall be stored in a secured storage facility. A secured storage facility shall consist of a locked safe or vault on the premises of the Department of Labor.

C. No one shall be allowed access to trade secret material other than samples submitted for laboratory analysis unless it has been determined by the Commissioner of Labor (or his designee) that the individual in question has a specific need to know the contents of the particular file. A log shall be maintained which records the identify of each person having access to a particular file (substance, record, sample or portion thereof, etc.) containing trade secret material stored in the secured storage facility, as well as the date, time, and reason for such access. A submitter shall have access to this log upon request. In all situations in which all or part of a physical material (sample) is either partially or totally expended or destroyed in an analysis process, the agency shall maintain accurate records explaining these circumstances and accounting for the expended material. A submitter may have access to records upon request.

D. Any materials removed from the secured storage facility for inspection or use by Department of Labor representatives shall be inspected or used on the premises and promptly returned to the secured storage facility. Trade secrets are not to be taken from the premises unless necessary for laboratory work, use in an enforcement proceeding or for returning them to the submitter. In no event are materials other than samples submitted for laboratory analysis to be taken away from the

secured storage facility overnight unless other equally secured facilities are available elsewhere. Trade secret materials will be maintained at all times within the custody of representatives of the South Carolina Department of Labor.

E. Materials in transit shall not be left unattended by any representative of the Department of Labor in any vehicle, public conveyance, restaurant, hotel or any other place other than a secured storage facility.

F. Samples submitted for laboratory analysis shall not be identified by the employer's name or facility. Any laboratory providing analysis for said samples shall be required to account for all quantities expended or destroyed in the analysis process and shall also be required to return to the Department of Labor any sample materials not destroyed. All reports submitted to Department of Labor by any laboratory following any analysis procedure and containing trade secrets materials shall be marked as such and safeguarded according to paragraphs A-E of this regulation.

71–1106. Release Of Trade Secret Material.

A. Trade secret material or information concerning the identity or nature of a trade secret shall not be divulged by any representative of the Department of Labor in any manner of fashion whatever to anyone other than another permanent employee of the Department of Labor actively engaged in an inspection or enforcement proceeding involving the submitter which resulted in the acquisition of the trade secret material by the Department of Labor.

B. It is the policy of the Department of Labor to fully assert the exemption to the Freedom of Information Act contained in Section 30-4-40(a)(1) of the South Carolina Code (1976) with respect to designated trade secret material. Based on this policy trade secret material shall not be divulged by the Department of Labor pursuant to a Freedom of Information Act or other request without court order or subpoena.

C. In the event a Freedom of Information Act or other request is made for trade secret material, a copy of both the request itself and the letter from the Department of Labor denying it shall be mailed to the submitter of the trade secret material by registered mail within 10 days of receipt of the request.

D. In the event that a suit is filed against the Department of Labor under the Freedom of Information Act to obtain trade secret material, the submitter of said information shall be notified of the suit within 10 days after the service of the complaint upon the Department of Labor. The Department of Labor shall call upon the submitter of the trade secret material to furnish assistance and shall not oppose a motion by the submitter to intervene as a party to the suit.

E. Where the Department of Labor is served with any subpoena for records or material containing designated trade secrets, the Department will make reasonable efforts to contact the submitter by telephone and by letter. The Department of Labor will make a motion for a protective order in any such case. The Department of Labor Shall call upon the submitter of the trade secret material to furnish assistance and shall not oppose a motion by the submitter to intervene as a party to the suit.

71–1107. Removal Of Trade Secret Material From Submitter's Premises.

A. Trade secret material should be, to the extent possible, examined on the premises of the submitter's establishment. It should not be removed unless it appears to the inspector that it is necessary and relevant to enforce provisions of the Occupational Safety and Health Act and applicable standards. These materials should not be removed merely for the convenience of the inspector in conducting his inspections.

B. When trade secret material other than samples for laboratory analysis is removed from the submitter's premises, it shall be transported directly to a secured storage facility and placed therein for safekeeping.

C. The Department of Labor or any employer may agree to leave any trade secret material on the employer's premises provided that the Department of Labor representatives are granted sufficient access to the secrets to enable them to carry out the purpose of the Occupational Safety and Health Act.

D. Samples for laboratory analysis shall be transported directed to the laboratory and protected as described in R. 71-1105F.

71–1108. Return Of Trade Secret Material To Submitter.

A. In the event that an inspection does not result in the issuance of a citation, the Department of Labor shall return all trade secret materials to the submitter as soon as allowable under federal regulations, but not later than 12 months after the inspection.

B. In the event that an inspection does result in a citation, the Department of Labor shall return all trade secret materials not relevant to the specific citation, as soon as possible under federal regulations, but in no event later than 12 months after the inspection. Any trade secret materials retained by the Department of Labor for use in a contested proceeding shall be returned to the submitter upon final termination of the proceeding and any mandatory federal review of same.

C. No trade secret material shall be returned to the submitter pursuant to paragraph A or B above unless the submitter agrees, in writing, to preserve the Department of Labor's records intact and provide future access to them on request by the Department of Labor. Such files shall be indexed by the Department of Labor to enable it to determine what material was returned to the submitter without revealing the nature of the trade secret contained in the file.

D. The Department of Labor shall not be required to return to the submitter trade secret material contained in the Department's work product. Work product of the Department of Labor containing trade secret material shall be destroyed, given to the submitter or retained in the secured storage facility. An appropriate entry shall be made on the access log maintained by the Department of Labor.

E. When trade secret materials are returned to the submitter under this section, an explanation will be provided for all samples or part(s) of a sample destroyed by analysis. Upon request the submitter shall be provided with a copy of the access log maintained by the Department of Labor.

Subarticle 12
Rules for the Compensation of Members of the Occupational Health and Safety Review Board

Editor's Note
This subarticle became effective June 28, 1985.

71–1201. Reimbursement of Expenses.

To the extent funds are appropriated therefor by the General Assembly, the South Carolina Department of Labor will reimburse each member of the Occupational Health and Safety Review Board for lodging, meals, actual mileage, and other expenses incurred while fulfilling his duties according to the Appropriations Act or the most current general rules for reimbursement as issued by the State Budget and Control Board for employees of the State of South Carolina.

71–1202. Hourly Compensation; Itemized Submissions.

To the extent funds are appropriated therefor by the General Assembly, the South Carolina Department of Labor will compensate the members of the Occupational Health and Safety Review Board for time spent on individual cases and on the other duties of the board at the rate of sixty-five ($65.00) dollars per hour. Members shall submit itemized statements showing:

1. Dates on which services were performed;
2. Nature (description) of services on each date;
3. Time expended (hours) on each service and dates;
4. Hourly rates for each entry of services; and
5. Signature of member certifying review and submission of statement.

Article 3
Child Labor

(Statutory Authority: 1976 Code § 41–13–20)

71–3100. Purpose.

Section 41-13-20, South Carolina Code of Laws, 1976 (as amended), provides that the Director of the Department of Labor, Licensing and Regulation shall promulgate regulations which will prohibit oppressive child labor practices but be no more restrictive or burdensome than applicable federal laws or regulations. It is the purpose of these regulations to resolve any contradictions between state and federal law and to protect the well-being of children at work in this State.

HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

71–3101. Scope.

These rules and regulations shall apply to every employer in this State.

71–3102. Definitions.

1. "Oppressive child labor" means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer (other than a parent or a person standing in place of a parent employing his own child or a child in his custody under the age of sixteen years in an occupation other than manufacturing or mining or an occupation found by the Director of the Department of Labor, Licensing and Regulation to be particularly hazardous for the employment of children sixteen and seventeen years or detrimental to their health or well-being) in any occupation, or (2) any employee sixteen and seventeen years is employed by an employer in any occupation which the Director of the Department of Labor, Licensing and Regulation shall find and by regulation declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being.

2. "Employer" means every person, firm, partnership, association, corporation, receiver or other officer of a court of this State, the State or any political subdivision thereof and any agent or officer of the above-mentioned classes employing any person in this State.

HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

71–3103. Age Restrictions.

No person under the age of sixteen shall be employed in this State except according to the regulations in this subarticle.

71–3104. Employment in Hazardous Occupations or Occupations Detrimental to Health or Well Being.

Persons sixteen and seventeen shall not be employed in any occupation declared by the Director of the Department of Labor, Licensing and Regulation to be particularly hazardous or detrimental to the health or well-being of minors. Such occupations are identified at 71-3107.

HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

71–3105. Exempted Occupations; Apprentices; Student–Learners.

(a) The following occupations are exempted from the coverage of these regulations for minors of any age according to the terms of each exemption.

(b) The provisions of this Article with the exception of 71-3108 do not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee is fourteen years or older, or is twelve or thirteen years of age and the employment is with the consent of his parent or person standing in the place of his parent.

(c) The provisions of this Article do not apply with respect to any employee engaged in the street sale or delivery of newspapers to the consumer, including carriers making deliveries to the homes of subscribers.

(d) The provisions of this Article do not apply with respect to any employee engaged as an actor or performer in motion pictures, radio or television productions, or theatrical productions.

(e) The provisions of this Article do not apply with respect to any employee employed by his or her own parent or the person standing in place of his or her parent except in those occupations found by

the Director of the Department of Labor, Licensing and Regulation to be particularly hazardous or detrimental to health or well-being of minors and identified at 71-3107.

(f) Where this Article contains any exemption for the employment of apprentices, such an exemption shall apply only when (1) the apprentice is employed in a craft recognized as an apprenticeable trade; (2) the work of the apprentice in the occupations declared particularly hazardous is incidental to his training; (3) such work is intermittent and for short periods of time and is under the direct and close supervision of a journeyman as a necessary part of such apprentice training; and (4) the apprentice is registered by the Bureau of Apprenticeship and Training of the United States Department of Labor as employed in accordance with the standards established by that Bureau.

(g) Where this Article contains an exemption for the employment of student-learners, such an exemption shall apply when (1) the student-learner is enrolled in a course of study and training in a cooperative vocational training program under a recognized State or local educational authority or in a course of study in a substantially similar program conducted by a private school; and (2) such student-learner is employed under a written agreement which provides:

(i) That the work of the student-learner in the occupations declared particularly hazardous shall be incidental to his training;

(ii) That such work shall be intermittent and for short periods of time, and under the direct and close supervision of a qualified and experienced person;

(iii) That safety instructions shall be given by the school and correlated by the employer with on-the-job training; and

(iv) That a schedule of organized and progressive work processes to be performed on the job shall have been prepared. Each such written agreement shall contain the name of student-learner, and shall be signed by the employer and the school coordinator or principal. Copies of each agreement shall be kept on file by both the school and the employer. This exemption for the employment of student-learners may be revoked in any individual situation where it is found that reasonable precautions have not been observed for the safety of minors employed thereunder. A high school graduate may be employed in an occupation in which he has completed training as provided in this paragraph as a student-learner, even though he is not yet eighteen years of age.

HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

71–3106. Employment of Minors Between 14 and 16 Years of Age.

(a) The employment of minors fourteen and fifteen years of age in the occupation, for the periods, and under the conditions hereafter specified does not interfere with their schooling or with their health and well-being and shall not be deemed to be oppressive child labor.

(b) In all occupations covered by this subpart the employment (including suffering or permitting to work) by an employer of minor employees fourteen and fifteen years of age shall be confined to the following periods:

(1) Outside school hours;

(2) Not more than 40 hours in any one week when school is not in session;

(3) Not more than 18 hours in any one week when school is in session;

(4) Not more than 8 hours in any one day when school is not in session;

(5) Not more than 3 hours in any one day when school is in session; and

(6) Between 7 a.m. and 7 p.m. in any one day, except during the period of summer break of the school district in which the minor resides, when the evening hour will be 9 p.m.

(c) Permitted occupations for minors fourteen and fifteen years employed by retail, food service, and gasoline service establishments include:

(1) Office and clerical work, including the operation of office machines;

(2) Cashiering, selling, modeling, art work, work in advertising departments, window trimming, and comparative shopping;

(3) Price marking and tagging by hand or by machine, assembling orders, packing and shelving;

(4) Bagging and carrying out customers' orders;

(5) Errand and delivery work by foot, bicycle, and public transportation;

(6) Clean up work, including the use of vacuum cleaners and floor waxers, and maintenance of grounds, but not including the use of power-driven mowers, or cutters;

(7) Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devices used in the performance of such work, such as but not limited to, dish-washers, toasters, dumb-waiters, popcorn poppers, milk shake blenders, coffee grinders, automatic coffee machines, devices used to maintain the temperature of prepared foods (such as warmers, steam tables, and heat lamps), and microwave ovens that are used only to warm prepared food and do not have the capacity to warm above 140 degrees Fahrenheit. Minors are permitted to clean kitchen equipment (not otherwise prohibited), remove oil or grease filters, pour oil or grease through filters, and move receptacles containing hot grease or hot oil, but only when the equipment, surfaces, containers, and liquids do not exceed a temperature of 100 degrees Fahrenheit;

(8) Work in connection with cars and trucks if confined to the following: Dispensing gasoline and oil; courtesy service; car cleaning, washing and polishing; and other occupations permitted by this section, but not including work involving the use of pits, racks, or lifting apparatus, or involving the inflation of any tire mounted on a rim equipped with a removable retaining ring; and

(9) Cleaning vegetables and fruits, and wrapping, sealing, labeling, weighing, pricing and stocking goods when performed in areas physically separate from those where the work described in paragraph (d)(12) of this section is performed.

(d) Occupations which are not permitted for minors fourteen and fifteen years of age include:

(1) Manufacturing, mining, or processing occupations, including occupations requiring the performance of any duties in work rooms or work places where goods are manufactured, mined, or otherwise processed, except those occupations permitted by paragraph (c) of this section;

(2) Occupations which involve the operation or tending of hoisting apparatus or of any power-driven machinery other than office machines;

(3) The operation of motor vehicles or service as helpers on such vehicles;

(4) Public messenger service;

(5) Occupations which the Director of the Department of Labor, Licensing and Regulation may find and declare to be hazardous for the employment of minors sixteen and seventeen years of age or detrimental to their health or well-being;

(6) Occupations in connection with:

(a) Transportation of persons or property by rail, highway, air, water, pipeline, or other means;

(b) Warehousing and storage;

(c) Communications and public utilities;

(d) Construction (including demolition and repair);

except such office (including ticket office) work, or sales work, in connection with paragraphs (6)(a), (b), (c), and (d) of this section, as does not involve the performance of any duties on trains, motor vehicles, aircraft, vessels, or other media of transportation or at the actual site of construction operations;

(7) Work performed in or about boiler or engine rooms;

(8) Work in connection with maintenance or repair of the establishment, machines or equipment;

(9) Outside window washing that involves working from window sills, and all work requiring the use of ladders, scaffolds, or their substitutes;

(10) Cooking and baking except:

(a) Cooking is permitted with electric or gas grills which does not involve cooking over an open flame (Note: this provision does not authorize cooking with equipment such as rotisseries, broilers, pressurized equipment including fryolators, and cooking devices that operate at extremely high temperatures such as "Neico broilers"); and

(b) Cooking is permitted with deep fryers that are equipped with and utilize a device which automatically lowers the baskets into the hot oil or grease and automatically raises the baskets from the hot oil or grease;

(11) Occupations which involve operating, setting up, adjusting, cleaning, oiling, or repairing power-driven food slicers and grinders, food choppers, and cutters, and bakery-type mixers;

(12) Work in freezers and meat coolers and all work in the preparation of meats for sale except as described in paragraph (c)(9) of this section;

(13) Loading and unloading goods to and from trucks, railroad cars, or conveyors;

(14) All occupations in warehouses except office and clerical work.

(e) This section shall not apply to any Work Experience or Career Exploration Program approved by the Administrator of the Wage and Hour Division of the United States Department of Labor. The South Carolina Department of Labor will not make separate determinations concerning such programs. See 29 CFR § 570.35(a).

HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997; State Register Volume 30, Issue No. 5, eff May 26, 2006.

71–3107. List of Hazardous Occupations or Occupations Detrimental to Health of Minor; Exemptions.

(A) The following occupations are found to be particularly hazardous for minors sixteen and seventeen years of age or detrimental to their health or well-being. Employment of minors sixteen and seventeen years of age in these occupations is not permitted.

(B) Occupations in or about establishments manufacturing or storing explosives or articles containing explosive components are particularly hazardous for the employment of minors sixteen and seventeen years of age.

1. All occupations in or about any plant or establishment (other than retail establishments or plants or establishments of the type described in subparagraph (B)(2) of this section) manufacturing or storing explosives or articles containing explosive components except where the occupation is performed in a "nonexplosives area" as defined in paragraph (B)(3) of this section.

2. The following occupations in or about any plant or establishment manufacturing or storing small-arms ammunition not exceeding .60 caliber in size, shotgun shells, or blasting caps when manufactured or stored in conjunction with the manufacture of small-arms ammunition:

(i) All occupations involved in the manufacturing, mixing, transporting, or handling of explosive compounds in the manufacture of small-arms ammunition and all other occupations requiring the performance of any duties in the explosives area in which explosive compounds are manufactured or mixed.

(ii) All occupations involved in the manufacturing, transporting, or handling of primers and all other occupations requiring the performance of any duties in the same building in which primers are manufactured.

(iii) All occupations involved in the priming of cartridges and all other occupations requiring the performance of any duties in the same workroom in which rim-fire cartridges are primed.

(iv) All occupations involved in the plate loading of cartridges and in the operation of automatic loading machines.

(v) All occupations involved in the loading, inspecting, packing, shipping and storage of blasting caps.

3. Definitions. For the purpose of this section:

(a) The term "plant or establishment manufacturing or storing explosives or articles containing explosive component" means the land with all the buildings and other structures thereon used in connection with the manufacturing or processing or storing of explosives or articles containing explosive components.

(b) The terms "explosives" and "articles containing explosive components" mean and include ammunition, black powder, blasting caps, fireworks, high explosives, primers, smokeless powder, and all goods classified and defined as explosives and explosive materials in 18 U.S.C. 841(c)-(f)

and the implementing regulations at 27 CFR Part 555. The terms include any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, as well as all goods identified in the most recent list of explosive materials published by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice. This list is not intended to be all-inclusive and is updated and published annually in the Federal Register pursuant to 18 U.S.C. 841(d). A copy of the most recent version of the list may be found through the Bureau of Alcohol, Tobacco, Firearms, and Explosives' website at http://www.atf.gov.

(c) An area meeting all of the criteria in paragraphs (B)(3)(c)(i) through (iv) of this section shall be deemed a "nonexplosives area":

(i) None of the work performed in the area involves the handling or use of explosives;

(ii) The area is separated from the explosives area by a distance not less than that prescribed in the American Table of Distances for the protection of inhabited buildings;

(iii) The area is separated from the explosives area by a fence or is otherwise located so that it constitutes a definite designated area; and

(iv) Satisfactory controls have been established to prevent employees under eighteen years of age within the area from entering any area in or about the plant which does not meet criteria of paragraphs (B)(3)(c)(i) through (iii) of this section.

(C)(1) Finding and declaration of fact. Except as provided in subparagraph (2) of this paragraph the occupations of motor vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in 71–3107(O) are particularly hazardous for the employment of minors sixteen and seventeen years of age.

(2) Exemptions—

(i) Incidental and occasional driving. The finding and declaration in paragraph (1) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours: Provided, such operation is only occasional and incidental to the child's employment; that the child holds a State license valid for the type of driving involved in the job which he performs, has no records of any moving violations at the time of hire, and has completed a State approved driver education course: And provided further, that the vehicle is equipped with a seat belt or similar device for the driver and for each helper, and the employer has instructed each child that such belts or other devices must be used: And provided further, that the driving performed by the child does not involve more than two trips away from the primary place of employment in any single day for the purpose of delivering goods of the child's employer to a customer or of transporting passengers (other than the employees of the employer); and that the driving takes place within a thirty (30) mile radius of the minor's place of employment. This paragraph shall not be applicable to any occupation of motor vehicle driver which involves the towing of vehicles; route deliveries or route sales; the transportation for hire of property, goods, or passengers; urgent, time-sensitive deliveries; or the transporting at any one time of more than three passengers, including the employees of the employer.

(ii) School bus driving. The finding and declaration in paragraph (a) of this section shall not apply to driving a school bus.

(3) Definitions. For the purpose of this paragraph:

(i) The term "motor vehicle" shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(ii) The term "driver" shall mean any individual who, in the course of his employment, drives a motor vehicle at any time.

(iii) The term "outside helper" shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(iv) The term "gross vehicle weight" includes the truck chassis with lubricants, water and full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body, and special chassis and body equipment, and payload.

(v) The term "occasional and incidental" shall mean no more than one-third of an employee's worktime in any workday and no more than 20 percent of an employee's worktime in any workweek.

(vi) The term "urgent, time-sensitive deliveries" shall mean trips which, because of such factors as customer satisfaction, the rapid deterioration of quality or change in temperature of the product, and/or economic incentives, are subject to time-lines, schedules, and/or turnaround times which might impel the driver to hurry in the completion of the delivery. Prohibited trips would include, but are not limited to, the delivery of pizzas and prepared foods to the customer; the delivery of materials under a deadline (such as deposits to a bank at closing); and the shuttling of passengers to and from transportation depots to meet transport schedules. "Urgent, time-sensitive deliveries" would not depend on the delivery's points of origin and termination, and would include the delivery of people and things to the employer's place of business as well as from that business to some other location.

(D) Finding and declaration of fact. All occupations in logging and all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill are particularly hazardous for the employment of minors between sixteen and eighteen years of age, except the following:

(1) Exceptions applying to logging:

(i) Work in offices or in repair or maintenance shops.

(ii) Work in the construction, operation, repair, or maintenance of living and administrative quarters of logging camps.

(iii) Work in timber cruising, surveying, or logging-engineering parties; work in the repair or maintenance of roads, railroads, or flumes; work in forest protection, such as clearing fire trails or roads, piling and burning slash, maintaining fire-fighting equipment, constructing and maintaining telephone lines, or acting as fire lookout or fire patrolman away from the actual logging operations: Provided, That the provisions of this paragraph shall not apply to the felling or bucking of timber, the collecting or transporting of logs, the operation of power-driven machinery, the handling or use of explosives, and work on trestles.

(iv) Peeling of fence posts, pulpwood, chemicalwood, excelsior wood, cordwood, or similar products, when not done in conjunction with and at the same time and place as other logging occupations declared hazardous by this section.

(v) Work in the feeding or care of animals.

(2) Exceptions applying to the operation of any permanent sawmill or the operation of any lath mill, shingle mill, or cooperage-stock mill: Provided, That these exceptions do not apply to a portable sawmill the lumberyard of which is used only for the temporary storage of green lumber and in connection with which no office or repair or maintenance shop is ordinarily maintained: And further provided, That these exceptions do not apply to work which entails entering the sawmill building:

(i) Work in offices or in repair or maintenance shops.

(ii) Straightening, marking, or tallying lumber on the dry chain or the dry drop sorter.

(iii) Pulling lumber from the dry chain.

(iv) Clean-up in the lumberyard.

(v) Piling, handling, or shipping of cooperage stock in yards or storage sheds other than operating or assisting in the operation of power driven equipment.

(vi) Clerical work in yards or shipping sheds, such as done by ordermen, tally-men, and shipping clerks.

(vii) Clean-up work outside shake and shingle mills, except when the mill is in operation.

(viii) Splitting shakes manually from precut and split blocks with a froe and mallet, except inside the mill building or cover.

(ix) Packing shakes into bundles when done in conjunction with splitting shakes manually with a froe and mallet, except inside the mill building or cover.

(x) Manual loading of bundles of shingles or shakes into trucks or railroad cars, provided that the employer has on file a statement from a licensed doctor of medicine or osteopathy certifying the minor capable of performing this work without injury to himself.

(3) Definitions. As used in this paragraph:

(1) The term "all occupations in logging" shall mean all work performed in connection with the felling of timber; the bucking or converting of timber into logs, poles, piles, ties, bolts, pulpwood, chemical wood, excelsior wood, cordwood, fence posts, or similar products; the collecting, skidding, yarding, loading, transporting and unloading of such products in connection with logging; the constructing, repairing and maintaining of roads, railroads, flumes, or camps used in connection with logging; the moving, installing, rigging, and maintenance of machinery or equipment used in logging; and other work performed in connection with logging. The term shall not apply to work performed in timber culture, timber-stand improvement, or in emergency fire-fighting.

(2) The term "all occupations in the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill" shall mean all work performed in or about any such mill in connection with storing of logs and bolts; converting logs or bolts into sawn lumber, laths, shingles, or cooperage-stock; storing, drying, and shipping lumber, laths, shingles, cooperage-stock, or other products of such mills; and other work performed in connection with the operation of any sawmill, lath mill, shingle mill, or cooperage-stock mill. The term shall not include work performed in the planing mill department or other remanufacturing departments of any sawmill, or in any planing mill or remanufacturing plant not a part of a sawmill.

(E) Finding and declaration of fact. The following occupations involved in the operation of power-driven woodworking machines are particularly hazardous for minors sixteen and seventeen years of age:

(1) The occupation of operating power-driven woodworking machines, including supervising or controlling the operation of such machines, feeding material into such machines, and helping the operator to feed material into such machines but not including the placing of material on a moving chain or in a hopper or slide for automatic feeding.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning power-driven woodworking machines.

(3) The occupations of off-bearing from circular saws and from guillotine-action veneer clippers.

(4) Definitions. As used in this section:

(i) The term "power-driven woodworking machines" shall mean all fixed or portable machines or tools driven by power and used or designed for cutting, shaping, forming, surfacing, nailing, stapling, wire stitching, fastening, or otherwise assembling, pressing, or printing wood or veneer.

(ii) The term "off-bearing" shall mean the removal of material or refuse directly from a saw table or from the point of operation. Operations not considered as off-bearing within the intent of this section include (a) the removal of material or refuse from a circular saw or guillotine-action veneer clipper where the material or refuse has been conveyed away from the saw table or point of operation by a gravity chute or by some mechanical means such as a moving belt or expulsion roller, and (b) the following operations when they do not involve the removal of material or refuse directly from a saw table or from the point of operation: the carrying, moving, or transporting of materials from one machine to another or from one part of a plant to another; the piling, stacking, or arranging of materials for feeding into a machine by another person; and the sorting, tying, bundling, or loading of materials.

(5) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in 71-3105(f) and (g).

(F) Finding and declaration of fact. The following occupations involving exposure to radioactive substances and to ionizing radiations are particularly hazardous and detrimental to health for minors sixteen and seventeen years of age:

(1) Any work in any workroom in which (i) radium is stored or used in the manufacture of self-luminous compound, (ii) self-luminous compound is made, processed, or packaged, (iii) self-luminous compound is stored, used, or worked upon, (iv) incandescent mantles are made from fabric and solutions containing thorium salts, or are processed or packaged, (v) other radioactive substances are present in the air in average concentrations exceeding 10 percent of the maximum permissible concentrations in the air recommended for occupational exposure by the National Committee on Radiation Protection, as set forth in the 40-hour week column of table one of the National Bureau of Standards Handbook No. 69 entitled "Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure," issued June 5, 1959.

(2) Any other work which involves exposure to ionizing radiations in excess of 0.5 rem per year.

(3) Definitions. As used in this paragraph:

(i) The term "self-luminous compound" shall mean any mixture of phosphorescent material and radium, mesothorium, or other radioactive element;

(ii) The term "workroom" shall include the entire area bounded by walls of solid material and extending from floor to ceiling;

(iii) The term "ionizing radiations" shall mean alpha and beta particles, electrons, protons, neutrons, gamma and X-ray and all other radiations which produce ionizations directly or indirectly, but does not include electromagnetic radiations other than gamma and X-ray.

(G) Finding and declaration of fact. The following occupations involved in the operation of power-driven hoisting apparatus are particularly hazardous for minors sixteen and seventeen years of age:

(1) Work of operating an elevator, crane, derrick, hoist, or high-lift truck, except operating an unattended automatic operation passenger elevator or an electric or air-operated hoist not exceeding one ton capacity.

(2) Work which involves riding on a manlift or on a freight elevator, except a freight elevator operated by an assigned operator.

(3) Work of assisting in the operation of a crane, derrick, or hoist performed by crane hookers, crane chasers, hookers-on, riggers, rigger helpers, and like occupations.

(4) Definitions. As used in this paragraph:

(i) The term "elevator" shall mean any power-driven hoisting or lowering mechanism equipped with a car or platform which moves in guides in a substantially vertical direction. The term shall include both passenger and freight elevators (including portable elevators or tiering machines), but shall not include dumbwaiters.

(ii) The term "crane" shall mean a power-driven machine for lifting and lowering a load and moving it horizontally, in which the hoisting mechanism is an integral part of the machine. The term shall include all types of cranes, such as cantilever gantry, crawler, gantry, hammerhead, ingot-pouring, jib, locomotive, motor-truck, overhead traveling, pillar jib, pintle, portal, semi-gantry, semi-portal, storage bridge, tower, walking jib, and wall cranes.

(iii) The term "derrick" shall mean a power-driven apparatus consisting of a mast or equivalent members held at the top by guys or braces, with or without a boom, for use with a hoisting mechanism or operating ropes. The term shall include all types of derricks, such as A-frame, breast, Chicago boom, gin-pole, guy and stiff-leg derrick.

(iv) The term "hoist" shall mean a power-driven apparatus for raising or lowering a load by the application of a pulling force that does not include a car or platform running in guides. The term shall include all types of hoists, such as base mounted electric, clevis suspension, hook suspension, monorail, overhead electric, simple drum and trolley suspension hoists.

(v) The term "high-lift truck" shall mean a power-driven industrial type of truck used for lateral transportation that is equipped with a power-operated lifting device usually in the form of a fork or platform capable of tiering loaded pallets or skids one above the other. Instead of a fork or platform, the lifting device may consist of a ram, scoop, shovel, crane, revolving fork, or other attachments for handling specific loads. The term shall mean and include highlift trucks known under such names as fork lifts, fork trucks, fork-lift trucks, tiering trucks, or stacking trucks, but

shall not mean low-lift trucks or low-lift platform trucks that are designed for the transportation of but not the tiering of material.

(vi) The term "manlift" shall mean a device intended for the conveyance of persons which consists of platforms or brackets mounted on, or attached to, an endless belt, cable, chain or similar method of suspension; such belt, cable or chain operating in a substantially vertical direction and being supported by and driven through pulleys, sheaves or sprockets at the top and bottom.

(5) Exception.

(a) This section shall not prohibit the operation of an automatic elevator and an automatic signal operation elevator provided that the exposed portion of the car interior (exclusive of vents and other necessary small openings), the car door, and the hoistway doors are constructed of solid surfaces without any opening through which a part of the body may extend; all hoistway openings at floor level have doors which are interlocked with the car door so as to prevent the car from starting until all such doors are closed and locked; the elevator (other than hydraulic elevators) is equipped with a device which will stop and hold the car in case of overspeed or if the cable slackens or breaks; and the elevator is equipped with upper and lower travel limit devices which will normally bring the car to rest at either terminal and a final limit switch which will prevent the movement in either direction and will open in case of excessive over travel by the car.

(b) For the purpose of this exception the term "automatic elevator" shall mean a passenger elevator, a freight elevator, or a combination passenger-freight elevator, the operation of which is controlled by pushbuttons in such a manner that the starting, going to the landing selected, leveling and holding, and the opening and closing of the car and hoistway doors are entirely automatic.

(c) For the purpose of this exception, the term "automatic signal operation elevator" shall mean an elevator which is started in response to the operation of a switch (such as a lever or pushbutton) in the car which when operated by the operator actuates a starting device that automatically closes the car and hoistway doors.from this point on, the movement of the car to the landing selected, leveling and holding when it gets there, and the opening of the car and hoistway doors are entirely automatic.

(H) Finding and declaration of fact. The following occupations are particularly hazardous for the employment of minors sixteen and seventeen years of age:

(1) The occupations of operator of or helper on the following power-driven metal forming, punching, and shearing machines:

(i) All rolling machines, such as beading, straightening, corrugating, flanging, or bending rolls; and hot or cold rolling mills.

(ii) All pressing or punching machines, such as punch presses except those provided with full automatic feed and ejection and with a fixed barrier guard to prevent the hands or fingers of the operator from entering the area between the dies; power presses; plate punches.

(iii) All bending machines, such as apron brakes and press brakes.

(iv) All hammering machines, such as drop hammers and power hammers.

(v) All shearing machines, such as guillotine or squaring shears; alligator shears; and rotary shears.

(2) The occupations of setting-up, adjusting, repairing, oiling, or cleaning these machines including those with automatic feed and ejection.

(3) Definitions.

(i) The term "operator" shall mean a person who operates a machine covered by this Order by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(ii) The term "helper" shall mean a person who assists in the operation of a machine covered by this Order by helping place materials into or remove them from the machine.

(iii) The term "forming, punching, and shearing machines", shall mean power-driven metal-working machines, other than machine tools, which change the shape of or cut metal by means of

tools, such as dies, rolls, or knives which are mounted on rams, plungers, or other moving parts. Types of forming, punching, and shearing machines enumerated in this section are the machines to which the designation is by custom applied.

(4) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 71-3105(f) and (g).

(I) [There is no subsection (I) in Reg. 71-3107.]

(J) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors sixteen and seventeen years of age:

(1) The occupations of operating or assisting to operate any of the following power-driven paper-products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machines, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, paper box compactor, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(3) Definitions.

(i) The term "applicable ANSI standard" shall mean the American National Standard Institute's Standard ANSI Z245.5–1990 ("American National Standard for Refuse Collection, Processing, and Disposal—Baling Equipment—Safety Requirements") for scrap paper balers or the American National Standard Institute's Standard ANSI Z245.2–1992 ("American National Standard for Refuse Collection, Processing, and Disposal Equipment—Stationary Compactors—Safety Requirements") for paper box compactors. Additional applicable standards are the American National Standard Institute's Standard ANSI Z245.5–1997 ("American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials—Baling Equipment—Safety Requirements") for scrap paper balers or the American National Standard Institute's Standard ANSI Z245.2–1997 ("American National Standard for Equipment Technology and Operations for Wastes and Recyclable Materials—Stationary Compactors—Safety Requirements") for paper box compactors, which the Secretary has certified to be at least as protective of the safety of minors as Standard ANSI Z245.5–1990 for scrap paper balers or Standard ANSI Z245.2–1992 for paper box compactors. The ANSI standards for scrap paper balers and paper box compactors govern the manufacture and modification of the equipment, the operation and maintenance of the equipment, and employee training. These ANSI standards are incorporated by reference in this paragraph and have the same force and effect as other standards in this section. Only the mandatory provisions (i.e., provisions containing the word "shall" or other mandatory language) of these standards are adopted as standards under this section. These standards are incorporated by reference as they exist on the date of approval; if any changes are made in these standards which the Secretary finds to be as protective of the safety of minors as the current standards, the Secretary will publish a Notice of the change of standards in the Federal Register. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of these standards are available for purchase from the American National Standards Institute (ANSI), 23 West 43rd St., Fourth Floor, New York, NY, 10036. In addition, these standards are available for inspection at the National Archives and Records Administration (NARA) and at the Occupational Safety and Health Administration's Docket Office, Room N2625, United States Department of Labor, 200 Constitution Avenue, NW, Washington, DC, 20210, or any of its regional offices. For information on availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(ii) The term "operating or assisting to operate" shall mean all work which involves starting or stopping a machine covered by this section, placing materials into or removing them from the machine, including clearing a machine of jammed paper or cardboard, or any other work directly involved in operating the machine. The term does not include the stacking of materials by an

employee in an area nearby or adjacent to the machine where such employee does not place the materials into the machine.

(iii) The term "paper box compactor" shall mean a powered machine that remains stationary during operation, used to compact refuse, including paper boxes, into a detachable or integral container or into a transfer vehicle.

(iv) The term "paper-products machine" shall mean power-driven machines used in the remanufacture or conversion of paper or pulp into a finished product, including preparing such materials for recycling or used in preparing such materials for disposal. The term is understood to apply to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or non-manufacturing establishment. The term is also understood to apply to those machines which, in addition to paper products, process other material for disposal.

(v) The term "scrap paper baler" shall mean a powered machine used to compress paper and possibly other solid waste, with or without binding, to a density or form that will support handling and transportation as a material unit without requiring a disposable or reusable container.

(4) Exemptions.

(i) Loading a scrap paper baler or paper box compactor. Sixteen- and seventeen-year-old minors may load materials into, but not operate or unload, those scrap paper balers and paper box compactors that are safe for sixteen-and seventeen-year-old employees to load and cannot be operated while being loaded. For the purpose of this exemption, a scrap paper baler or a paper box compactor is considered to be safe for sixteen- and seventeen-year-olds to load only if all of the following conditions are met: the scrap paper baler or paper box compactor meets the applicable ANSI standard; the scrap paper baler or paper box compactor includes an on-off switch incorporating a key-lock or other system and the control of the system is maintained in the custody of employees who are eighteen years of age or older; the on-off switch of the scrap paper baler or paper box compactor is maintained in an off position when the machine is not in operation; and the employer posts a notice on the scrap paper baler or paper box compactor (in a prominent position and easily visible to any person loading, operating, or unloading the machine) that includes and conveys all of the following information: That the scrap paper baler or paper box compactor meets the industry safety standard applicable to the machine, completely identifying the appropriate ANSI standard; That sixteen- and seventeen-year-old employees may only load the scrap paper baler or paper box compactor; and that no employee under the age of eighteen may operate or unload the scrap paper baler or paper box compactor.

(ii) Apprentices or student-learners. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in 71–3105(f) and (g).

(K) Findings and declaration of fact. The following occupations involved in the manufacture of clay construction products and of silica refractory products are particularly hazardous for the employment of minors sixteen and seventeen years of age, and detrimental to their health and well-being:

(1) All work in or about establishments in which clay construction products are manufactured, except (i) work in storage and shipping; (ii) work in offices, laboratories, and storerooms; and (iii) work in the drying departments of plants manufacturing sewer pipe.

(2) All work in or about establishments in which silica brick or other silica refactories are manufactured, except work in offices.

(3) Nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other hazardous occupations order issued by the Commissioner of Labor.

(4) Definitions.

(i) The term "clay construction products" shall mean the following clay products: Brick, hollow structural tile, sewer pipe and kindred products, refractories, and other clay products such as architectural terra cotta, glazed structural tile, roofing tile, stove lining, chimney pipes and tops, wall coping, and drain tile. The term shall not include the following non-structural-bearing clay products: Ceramic floor and wall tile, mosaic tile, glazed and enameled tile, faience, and similar tile, nor shall the term include non-clay construction products such as sand-lime brick, glass brick, or non-clay refractories.

(ii) The term "silica brick or other silica refractories" shall mean refractory products produced from raw materials containing free silica as their main constituent.

(L) Findings and declaration of fact. The following occupations are particularly hazardous for the employment of minors sixteen and seventeen years of age:

(1) The occupations of operator of or helper on the following power-driven fixed or portable machines except machines equipped with full automatic feed and ejection:

(i) Circular saws.

(ii) Band saws.

(iii) Guillotine shears.

(2) The occupations of setting-up, adjusting, repairing, oiling, or cleaning circular saws, band saws, and guillotine shears.

(3) Definitions.

(i) The term "operator" shall mean a person who operates a machine covered by this section by performing such functions as starting or stopping the machine, placing materials into or removing them from the machine, or any other functions directly involved in operation of the machine.

(ii) The term "helper" shall mean a person who assists in the operation of a machine covered by this section by helping place materials into or remove them from the machine.

(iii) The term "machines equipped with full automatic feed and ejection" shall mean machines covered by this Order which are equipped with devices for full automatic feeding and ejection and with a fixed barrier guard to prevent completely the operator or helper from placing any part of his body in the point-of-operation area.

(iv) The term "circular saw" shall mean a machine equipped with a thin steel disc having a continuous series of notches or teeth on the periphery, mounted on shafting, and used for sawing materials.

(v) The term "band saw" shall mean a machine equipped with an endless steel band having a continuous series of notches or teeth, running over wheels or pulleys, and used for sawing materials.

(vi) The term "guillotine shear" shall mean a machine equipped with a movable blade operated vertically and used to shear materials. The term shall not include other types of shearing machines, using a different form of shearing action, such as alligator shears or circular shears.

(4) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in 71-3105(f) and (g).

(M)(1) Finding and declaration of fact. All occupations in wrecking, demolition, and shipbreaking operations are particularly hazardous for the employment of minors sixteen and seventeen years of age and detrimental to their health and well-being.

(2) Definition. The term "wrecking, demolition, and shipbreaking operations" shall mean all work, including clean-up and salvage work, performed at the site of the total or partial razing, demolishing, or dismantling of a building, bridge, steeple, tower, chimney, other structure, ship or other vessel.

(N)(1) Finding and declaration of fact. All occupations in roofing operations and all occupations on or about a roof are particularly hazardous for the employment of minors sixteen and seventeen years of age or detrimental to their health.

(2) Definitions.

(i) The term "on or about a roof" shall mean all work performed upon or in close proximity to a roof, including carpentry and metal work, alterations, additions, maintenance and repair, including painting and coating of existing roofs; the construction of the sheathing or base of roofs (wood or metal), including roof trusses or joists; gutter and downspout work; the installation and servicing of television and communication equipment such as cable and satellite dishes; the installation and servicing of heating, ventilation and air conditioning equipment or similar appliances attached to roofs; and any similar work that is required to be performed on or about roofs.

(ii) The term "roofing operations" shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt, or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with: (1) the installation of roofs, including related metal work such as flashing and (2) alterations, additions, maintenance, and repair, including painting and coating, of existing roofs. The term shall also include all jobs on the ground related to roofing operations such as roofing laborer, roofing helper, materials handler, and tending a tar heater. The term shall not include gutter and downspout work; the construction of the sheathing or base of roofs; or the installation of television antennas, air conditioners, exhaust and ventilation equipment, or similar appliances attached to roofs.

(3) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in 71-3105(f) and (g).

(O) Finding and declaration of fact. The following occupations in excavation operations are particularly hazardous for the employment of persons sixteen and seventeen years of age:

(1) Excavating, working in, or backfilling (refilling) trenches, except (i) manually excavating or manually backfilling trenches that do not exceed four feet in depth at any point, or (ii) working in trenches that do not exceed four feet in depth at any point.

(2) Excavating for buildings or other structures or working in such excavations, except (i) manually excavating to a depth not exceeding four feet below any ground surface adjoining the excavation, or (ii) working in an excavation not exceeding such depth, or (iii) working in an excavation where the side walls are shored or sloped to the angle of repose.

(3) Working within tunnels prior to the completion of all driving and shoring operations.

(4) Working within shafts prior to the completion of all sinking and shoring operations.

(5) Exemptions. This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in 71-3105(f) and (g).

(P)(1) Finding and declaration of fact. The following occupations in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail or service establishments are particularly hazardous for the employment of minors sixteen and seventeen years of age or detrimental to their health or well-being:

(a) All occupations on the killing floor, in curing cellars, and in hide cellars, except the working of messengers, runners, hand-truckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.

(b) All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard-roll machines.

(c) All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(d) All occupations involved in the operation or feeding of the following power-driven meat-processing machines, including setting-up, adjusting, repairing, oiling, or cleaning such machines: meat patty forming machines, meat and bone cutting saws, knives (except bacon-slicing machines), head-splitters, and guillotine cutters; snout-pullers and jaw-pullers; skinning machines; horizontal rotary washing machines; casing-cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines).

(e) All boning occupations.

(f) All occupations that involve the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

(g) All occupations involving hand-lifting or hand-carrying any carcass or half-carcass of beef, pork or horse, or any quarter carcass of beef or horse.

(2) Definitions. As used in this section:

(a) The term "slaughtering and meat packing establishments" shall mean places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term shall also include establishments which manufacture or process meat products or sausage casings from animals.

(b) The term "rendering plants" shall mean establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(c) The term "killing floor" shall include that workroom or workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

(d) The term "curing cellar" shall include that workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include that workroom or workplace where meats are smoked.

(e) The term "hide cellar" shall include that workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

(f) The term "boning occupations" shall mean the removal of bones from meat cuts. It shall not include work that involves cutting, scrapping, or trimming meat from cuts containing bones.

(3) Exemptions. This section shall not apply to:

(a) The killing and processing of poultry, rabbits, or small game in areas physically separated from the killing floor.

(b) The employment of apprentices or student-learners under the conditions prescribed in § 71-3105(f) and (g).

(Q) Finding and declaration of fact. The following occupations involved in the operation of power-driven bakery machines are particularly hazardous for the employment of minors sixteen and seventeen years of age:

(1) The occupations of operating, assisting to operate, or setting up, adjusting, repairing, oiling, or cleaning any horizontal or vertical dough mixer; batter mixer; bread dividing, rounding, or molding machine; dough brake; dough sheeter; combination bread slicing and wrapping machine; or cake cutting band saw.

(2) The occupation of setting up or adjusting a cookie or cracker machine.

(R) Finding and declaration of fact. All occupations in connection with mining, other than coal, are particularly hazardous for the employment of minors sixteen and seventeen years of age or detrimental to their health or well-being and employment in such occupations is therefore prohibited under § 12 of the Fair Labor Standards Act, as amended, except the following:

(1) Work in offices, in the warehouse or supply house, in the change house, in the laboratory, and in repair or maintenance shops not located underground.

(2) Work in the operation and maintenance of living quarters.

(3) Work outside the mine in surveying, in the repair and maintenance of roads, and in general clean-up about the mine property such as clearing brush and digging drainage ditches.

(4) Work of track crews in the building and maintaining of sections of railroad track located in those areas of open-cut metal mines where mining and haulage activities are not being conducted at the time and place that such building and maintenance work is being done.

(5) Work in or about surface placer mining operations other than placer dredging operations and hydraulic placer mining operations.

(6) The following work in metal mills other than in mercury-recovery mills or mills using the cyanide process:

(i) Work involving the operation of jigs, sludge tables, flotation cells, or drier-filters;

(ii) Work of hand-sorting at picking table or picking belt;

(iii) General clean-up work:

Provided, however, That nothing in this section shall be construed as permitting employment of minors in any occupation prohibited by any other hazardous occupations order issued by the Secretary of Labor.

Definitions. As used in this section: The term "all occupations in connection with mining, other than coal" shall mean all work performed underground in mines and quarries; on the surface at underground mines and underground quarries; in or about open-cut mines, open quarries, clay pits, and sand and gravel operations; at or about placer mining operations; at or about dredging operations for clay, sand or gravel; at or about bore-hole mining operations; in or about all metal mills, washer plants, or grinding mills reducing the bulk of the extracted minerals; and at or about any other crushing, grinding, screening, sizing, washing or cleaning operations performed upon the extracted minerals except where such operations are performed as a part of a manufacturing process. The term shall not include work performed in subsequent manufacturing or processing operations, such as work performed in smelters, electro-metallurgical plants, refineries, reduction plants, cement mills, plants where quarried stone is cut, sanded and further processed, or plants manufacturing clay, glass or ceramic products. Neither shall the term include work performed in connection with coal mining, in petroleum production, in natural-gas production, nor in dredging operations which are not a part of mining operations, such as dredging for construction or navigation purposes.

HISTORY: Amended by State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997; State Register Volume 30, Issue No. 5, eff May 26, 2006.

71–3108. Hazardous Agricultural Occupations; Exemptions.

(a) The following occupations in agriculture are particularly hazardous for the employment of minors below the age of sixteen:

(1) Operating a tractor of over 20 PTO horsepower, or connecting or disconnecting an implement or any of its parts to or from such a tractor.

(2) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Corn picker, cotton picker, grain combine, hay mower, forage harvester, hay baler, potato digger, or mobile pea viner;

(ii) Feed grinder, crop dryer, forage blower, auger conveyor, or the unloading mechanism of a nongravity-type self-unloading wagon or trailer; or

(iii) Power post-hole digger, power post driver, or nonwalking type rotary tiller.

(3) Operating or assisting to operate (including starting, stopping, adjusting, feeding, or any other activity involving physical contact associated with the operation) any of the following machines:

(i) Trencher or earthmoving equipment;

(ii) Fork lift;

(iii) Potato combine; or

(iv) Power-driven circular, band, or chain saw.

(4) Working on a farm in a yard, pen, or stall occupied by a:

(i) Bull, boar, or stud horse maintained for breeding purposes; or

(ii) Sow with suckling pigs, or cow with newborn calf (with umbilical cord present).

(5) Felling, bucking, skidding, loading, or unloading timber with butt diameter of more than six inches.

(6) Working from a ladder or scaffold (painting, repairing, or building structures, pruning trees, picking fruit, etc.) at a height of over 20 feet.

(7) Driving a bus, truck, or automobile when transporting passengers, or riding on a tractor as a passenger or helper.

(8) Working inside:

(i) A fruit, forage, or grain storage designed to retain an oxygen deficient or toxic atmosphere;

(ii) An upright silo within 2 weeks after silage has been added or when a top unloading device is in operating position;

(iii) A manure pit; or

(iv) A horizontal silo while operating a tractor for packing purposes.

(9) Handling or applying (including cleaning or decontaminating equipment, disposal or return of empty containers, or serving as a flagman for aircraft applying) agricultural chemicals classified under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) as Category I of toxicity, identified by the word "poison" and the "skull and crossbones" on the label; or Category II of toxicity, identified by the word "warning" on the label;

(10) Handling or using a blasting agent, including but not limited to, dynamite, black powder, sensitized ammonium nitrate, blasting caps, and primer cord; or

(11) Transporting, transferring, or applying anhydrous ammonia.

(b) Exemptions.

(1) Student-learners shall be exempt from this section.

(2) This section shall not apply to the employment of a minor below the age of sixteen by his parent or by a person standing in the place of his parent on a farm owned or operated by such parent or person.

71–3110. Procedures for Hearing Child Labor Act Administrative Appeals.

1. Any employer aggrieved by any citation or penalty assessed pursuant to South Carolina Code § 41-13-25 may file a Notice of Protest within thirty (30) days of the date of the action protested.

2. The failure of a protesting party to appear at a hearing shall be deemed a withdrawal of the Notice of Protest and a waiver of all rights except the right to be served with a copy of the order of the Director. Any party who fails to appear without good cause after receiving notice of the time and place of hearing may be taxed with the costs of that hearing in the amount of One Hundred (100) dollars.

HISTORY: Amended by State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

71–3111. Proposed Penalties.

(A) All violations of SCRR 71–3104 and 71–3106(d) directly involve the health and safety of the child and shall be classified as violations of serious gravity. All other violations of the regulations will be classified as violations of other than serious gravity.

(B) All employers who employ one hundred (100) or more workers will be classified as large employers. All employers who employ fewer than one hundred (100) workers will be classified as small employers.

(C) Proposed penalties will be assessed as follows:

(1)	First instance serious, small employer	$ 500.00
(2)	First instance serious, large employer	$1,000.00
(3)	First instance other than serious, large or small employer	Warning
(4)	Second instance serious, small employer	$1,500.00
(5)	Second instance serious, large employer	$3,000.00
(6)	Second instance other than serious, small employer	$ 300.00
(7)	Second instance other than serious, large employer	$ 600.00
(8)	Third instance serious, small employer	$2,500.00
(9)	Third instance serious, large employer	$5,000.00
(10)	Third instance other than serious, small employer	$ 500.00
(11)	Third instance other than serious, large employer	$1,000.00

HISTORY: Added by State Register Volume 23, Issue No. 5, eff May 28, 1999.

ARTICLE 4
AMUSEMENT RIDES SAFETY CODE

(Statutory Authority: 1976 Code § 41–18–120)

71–4000. Purpose and Definitions.

1. Chapter 18 of Title 41, S.C. Code of Laws, 1976 (as amended) provides that the Commissioner of Labor promulgate regulations to guard against personal injuries in the assembly, disassembly, and use of amusement devices at carnivals, fairs, and amusement parks and to assure to any injured person the possibility of financial recovery for such injuries. It is the purpose of these regulations to set minimum acceptable safety standards for design, construction, operation and inspection of such amusement devices.

2. All definitions found in 41–18–40 apply to these regulations.

A. Accepted engineering practice: that which conforms to accepted principles, tests, or standards of nationally recognized technical or scientific authorities.

B. Operator: the person having direct control of the starting, stopping, or speed of an amusement device.

C. NDT: Non-Destructive Testing: Assorted testing methods used to disclose latent defects during which test the physical or chemical state of the material is not altered.

D. Imminent Danger: A condition which exists due to a mechanical, electrical, structural, design, or other defect which presents an excessive risk of serious injury to passengers, bystanders, operators, or attendants.

E. Operational Tests: Measurements of safety mechanisms which do not come into play during routine operation.

F. Open to the Public: Accessible or available to members of a community or population, irrespective of whether a fee is charged and without regard to the number of days that the device is available for use. It does not include a private club, organization, or institution utilizing a selection and approval process for membership that operates the device exclusively for the use of its members on premises owned or controlled by it. It also does not include a private residence where the device is operated by family members and their guests for non-business purposes. A club, organization, or institution that offers memberships for less than thirty days is not private.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 41, Issue No. 5, Doc. No. 4712, eff May 26, 2017.

71–4100. Maintenance of On-Site Information.

All owners shall maintain certain physical information at the site of operation of all amusement devices in South Carolina.

A. Name Plate–A unique identifying name plate in English shall be permanently affixed to each amusement device specifying location of manufacturer by city, state, and country. This name plate shall also have the serial number, device model number, and date of manufacture. In addition, a state ID number tag supplied by the Department shall be permanently affixed to the device.

B. Static and Dynamic Information–Each owner shall maintain at the site of operation of the amusement device the following information: height, width, diameter, and weight when in a non-operational state with no passengers and in a fully operational state with passengers.

C. Speed–When the proper speed is essential to the operation of the device, each owner shall maintain at the site of operation of the amusement device the following information:

(1) Maximum revolutions per minute, or

(2) Maximum feet per second or miles per hour.

D. Direction of Travel–When the proper direction of travel is essential to the design operation of the device, the manufacturer shall designate the direction of travel, including the reference point for this designation, and the owner will maintain this information at the site of operation of the amusement device.

E. Power Requirements–Each owner will maintain at the site of operation of the amusement device the following information:

(1) Electrical–Total electrical power required to operate the ride or device designated in watts, volts, and amperes, including minimum and maximum voltage limits.

(2) Mechanical–The minimum horsepower necessary to operate the device safely.

F. Passenger Capacity–Each owner shall maintain at the site of operation of the device the following specifications of the manufacturer:

(1) Maximum total passenger weight; and/or

(2) Maximum number of passengers by carrier unit and device total.

G. Recommended Balance of Passenger Loading or Unloading–When passenger distribution is essential to the proper operation of the device, the appropriate loading and unloading procedure with respect to weight distribution shall be maintained at the site of operation.

H. Recommended Passenger Restrictions–Where applicable, any passenger limitations such as, but not limited to height, weight, passenger placement, physical condition, or other appropriate restrictions, shall be maintained in full public view at the site of operation. The operator shall have the right to refuse access to a device to any person where the operator believes that access may jeopardize the safety of the rider or of any other person.

I. Environmental Restrictions–Specifications for operational restrictions relating to environmental conditions such as, but not limited to wind, rain, corrosive atmosphere, and extreme heat or cold, shall be maintained at the site of operation of the device by the owner.

J. Fastener Schedule–A manufacturer's issued schedule for the correct or better grade, torque, and placement of all critical fasteners used in the assembly or erection, or both, of the amusement device shall be maintained by the owner at the site of operation of the device.

K. Numbering–All passenger-carrying compartments shall be numbered without duplication.

L. Evacuation–An emergency evacuation plan shall be maintained at the site of operation of any amusement device where passengers may be more than five feet above the ground.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 197. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4200. Operation Procedures for Amusement Devices; Owners/Operator's Responsibility.

1. Each owner of an amusement device shall read and become familiar with the contents of the manufacturer's recommended operating instructions. Each owner shall prepare an operating fact sheet. This fact sheet shall be provided to each device operator and attendant of the amusement device. The owner's fact sheet (on a device-by-device basis) shall include but not be limited to:

A. Specific device operation policies and procedures with pertinent information from the manufacturer's instructions;

B. Description of the device operation;

C. Duties of the specific assigned position of the device operator or attendant;

D. General safety procedures;

E. Additional recommendations of the owner/operator; and

F. Specific emergency procedures in the event of an abnormal condition or an interruption of service.

2. The owner shall provide training and instructions for each operator and attendant of an amusement device. This training shall include, but not be limited to the following, where applicable:

A. Instructions on device operating procedures;

B. Instructions on specific duties of the assigned position;

C. Instructions on general safety procedures;

D. Instructions on emergency procedures;

E. Demonstration of the physical operation of the device;

F. Supervised observation of the device operator's physical operation of the device; and

G. Additional instructions deemed necessary by the owner.

3. The owner will enforce compliance with the operating fact sheet and maintain operation within limits described by the information required by 71-4100.

4. Every amusement device shall be maintained, operated, assembled and disassembled to be free from recognized hazards or defects which may cause serious injury.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4300. Operational Testing.

1. The owner of a device shall use manufacturer's operational tests, along with maximum intervals for these tests to be performed, to determine whether a safety mechanism is operating within operational limits as recommended by the manufacturer. If manufacturer's guidelines for operational testing are not available, the owner shall use operational tests based on available guidelines for devices similar in design and function.

2. Non-Destructive Testing (NDT): NDT shall be performed in conformance with manufacturer's specifications. In addition, any hidden shaft or structural member in an amusement device may be required to undergo NDT after written notice to the owner is given by the Department. The notice will specify a date by which NDT shall be completed.

3. The owner of a device shall conduct the tests developed under Section 71-4300 (1) and (2) at regular intervals and shall record the results of operational tests and shall provide the results to the Commissioner upon request.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4400. Maintenance Procedures for Amusement Devices.

1. Each owner of an amusement device shall read and become familiar with the contents of the manufacturer's maintenance instructions and specifications. Based on the manufacturer's recommendations, each owner shall develop and implement a program of maintenance and inspections providing for the duties and responsibilities necessary in the care of each amusement device. This program of maintenance shall include a checklist provided to each person performing the regularly scheduled maintenance on each device. The owner's checklist (on a device-by-device basis) shall include but not be limited to the following:

A. A description of preventive maintenance assignments to be performed with frequency;

B. A description of inspections to be performed with frequency;

C. Special safety instructions, where applicable; and

D. Any additional recommendations of the owner.

2. The owner of the amusement device shall provide training for each person performing the regularly scheduled maintenance on the device, pertaining to their assigned duties. This training shall include, but not be limited to the following:

A. Instructions on inspection and preventive maintenance procedures;

B. Instructions on specific duties of the assigned position;

C. Instructions on general safety procedures;

D. Demonstrations of the physical performance of the assigned regularly scheduled duties and inspections;

E. Supervised observation of the maintenance person's physical performance of his assigned regularly scheduled duties and inspections; and

F. Additional instructions deemed necessary by the owner.

3. Prior to carrying passengers, the owner shall conduct or cause to be conducted a daily pre-opening inspection to insure proper operation of the device. Where the manufacturer provides relevant instructions for a daily inspection, the owner may incorporate these instructions into his

inspection procedure. Where the manufacturer does not provide such instructions, the owner may incorporate relevant instructions for a daily inspection based on instructions from other amusement devices similar in design and function. The owner shall maintain a record of the daily inspection, signed and dated by the person performing it. These records shall be kept for a period of no less than three (3) years. The inspection program shall include, but not be limited to the following:

A. Inspection of all passenger-carrying equipment, including restraint equipment and latches;

B. Visual inspection of entrances, exits, stairways, and ramps;

C. Visual inspection of grounds around and/or inside of the device;

D. Functional testing of all communication equipment necessary for the operation of the device;

E. Inspection or testing of all automatic and manual safety equipment, including flotation and tethering equipment where applicable;

F. Inspection or testing of brakes, including service brakes, emergency brakes, parking brakes, and back stops;

G. Visual inspection of any fencing, guarding and barricades;

H. Visual inspection of the device structure;

I. Visual inspection of electrical equipment and wiring;

J. Visual inspection of accessible pins and fasteners;

K. Visual inspection of blocking and shoring; and

L. The device shall be operated for a minimum of two complete operating cycles. A complete cycle shall include operation of all passenger-carrying equipment.

4. Following any unscheduled cessation of operation necessitated by malfunction, adjustment, environmental conditions, mechanical, electrical, operational or structural modification, the device shall be unloaded and the device, or the specifically affected element, shall be appropriately inspected and operated without passengers to determine that the cause for cessation of operation has been corrected and does not create an operational problem.

5. If an inspector finds that the amusement device presents an imminent danger, he will notify in writing the amusement device operator, owner, and sponsor of the fair or carnival or owner of the land upon which the fair or carnival is located. If the device is not immediately removed from service, the inspector will file a report of the imminent danger with the Commissioner of Labor. A temporary or permanent restraining order will be sought where appropriate.

6. The owner or lessee of any amusement device which, during the course of its operation, is involved in an accident which results in a serious injury shall report the injury to the Commissioner before the end of the next business day. The report will include the names and addresses of the injured parties, the hospital where treatment was rendered, type of injuries, type of device involved, owner, and any other information pertaining to the events leading up to, the nature of, and the outcome of the accident as well as the status of the device involved in the accident.

7. Any part which has caused, contributed to, or has been damaged during a catastrophic accident shall not be removed from a device or destroyed until inspected by the Department.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4450. Miscellaneous Safety Requirements for Amusement Rides.

1. Electrical Systems.

A. The following wiring systems are acceptable:

(1) Three Phase System with an equipment grounding conductor grounded at the power source that is not bonded to a neutral conductor (except at the source) and is constructed in accordance with the 1990 National Electrical Code. Compliance with the requirements of any later edition of the National Electrical Code will be accepted by the Director as compliance with the 1990 edition.

(2) Single Phase System with an equipment grounding conductor grounded at the power source that is not bonded to a neutral conductor (except at the source) and is constructed in accordance

with the 1990 National Electrical Code. Compliance with the requirements of any later edition of the National Electrical Code will be accepted by the Director as compliance with the 1990 edition.

B. Ground fault interruption circuitry must be provided for wiring systems of 240 volts or less, 30 amps or less, for amusement devices in which water is a major medium. Control circuits 50 volts or less are exempt from this requirement. Permanent area lighting not attached to the amusement device or accessible by the public are exempt from this requirement when wired in accordance with the 1990 National Electrical Code. Compliance with the requirements of any later edition of the National Electrical Code will be accepted by the Director as compliance with the 1990 edition.

C. All electrical equipment and devices are to be guarded against access by unauthorized persons. All cable must be routed to reduce a tripping hazard.

D. Dark Rides

(1) The track or bus supplying voltage to the individual cars shall be maintained at 50 volts or less potential.

(2) All areas shall have adequate emergency lighting to permit safe exiting in the event of power failure. This lighting must come on automatically in the event of power failure.

(3) All areas shall have lighting controlled by a switch at the operating control station, in addition to emergency lights. This lighting shall be adequate to allow safe exiting.

(4) All exits shall have illuminated exit signs mounted above the exit and wired to automatically be energized in the event of power failure or in the event that the area lighting control switch at the operating station is activated.

E. All fluorescent lights shall have sleeving and be secured in place.

F. Each electrically operated amusement device shall be provided with a lockable externally operated protected disconnect. This disconnect shall remove all power from the amusement device, and shall be clearly labeled.

2. Structural.

A. All devices shall be guarded against access by non-authorized personnel into the area of operation.

B. One AB&C fire extinguisher of at least 10 lb. capacity shall be placed on all generator units of greater than 7.5 kilowatts. One AB&C fire extinguisher of at least 10 lb. capacity shall be provided for all gasoline powered amusement devices with engines greater than 5 HP and all remote fuel storage areas of 10 gallons or more. The fire extinguisher must be readily accessible and in good working order.

C. One AB&C fire extinguisher of at least 5 lb. capacity shall be placed on all generators less than 7.5 kilowatts. One AB&C fire extinguisher of at least 5 lb. capacity shall be provided for all gasoline-powered amusement devices with engines 5 HP or less and all remote fuel storage areas not exceeding 10 gallons. The fire extinguisher must be readily accessible and in good working order.

D. There shall be a minimum of 6 feet between fences when the fence is attached to a portion of a device containing an electrical device. Where the electrical device is 240 volts or less, 30 amps or less, and equipped with GFI circuitry, the minimum distance need not be maintained. Common fences are acceptable under other conditions.

E. Dark Rides—There shall be a minimum of one (1) smoke and fire detector per 500 square foot area and a five (5) lb. ABC fire extinguisher shall be located at all entrances and exits and at any operator station not located directly at an entrance or exit.

F. Blocking Requirements.

(1) The footing, blocking, or anchorage for amusement devices shall be sound, rigid, and capable of carrying the maximum intended load without settling or displacement. Unstable objects such as barrels, boxes, loose brick, or concrete blocks, shall not be used to support amusement devices.

(2) Blocking of an amusement device shall be sized so that the bearing surface of the blocking is equal to or greater than the bearing surface of the support pad of the amusement device.

(3) The height of the blocking shall not exceed the total width of the base of the blocks being used.

G. All amusement devices, generators and power distribution centers must be accessible to emergency vehicles.

H. All amusement devices must maintain a minimum 10′ clearance from any overhead power lines in both the static and dynamic states.

I. Internal combustion and electrical power sources, and power transmitting elements, shall be of adequate type, design and capacity to handle the design load.

J. Fuel tanks should be of adequate capacity to permit uninterrupted operation during normal operating hours. Where it is impossible to provide tanks of proper capacity for a complete day, the engine shall be shut down and the amusement device unloaded or evacuated during the refueling procedure. Under no circumstances shall the fuel supply be replenished while the engines are running.

K. An enclosed area in which an internal combustion engine is operated shall be ventilated. Exhaust fumes from the engine shall be discharged outside the area. The equipment shall be properly grounded.

L. Internal combustion power sources shall be located in a manner permitting proper maintenance and shall be protected either by guards, fencing or enclosures.

M. All amusement grounds shall be free from recognized hazards which may cause injury.

3. Ride Operation.

A. The owner shall not allow any device operator under the influence of controlled drugs or alcohol to operate or assist in the operation of the device.

B. When requested, the operator must halt a device and allow passengers desiring to disembark to do so.

C. The owner shall have no fewer than one (1) operator per device. Additional assistance may be required as necessary.

D. The owner shall not allow an operator to leave the controls during operation of the device and shall not allow assistants to leave their assigned stations during operation of the device.

E. All buttons and switches on operating control stations shall be properly labeled in English as to their functions, and all emergency stopping devices shall be colored red.

F. All operators must be able to speak and comprehend the English Language sufficiently to communicate with patrons, follow instructions and comprehend the operating fact sheet.

4. Mechanical.

A. An amusement device capable of exceeding its maximum safe operating speed shall be provided with a speed limiting device.

B. Amusement rides shall continue to meet manufacturing specifications including all safety bulletins.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 21, Issue No. 6, Part 2, eff June 27, 1997.

71–4475. Additional Rules for Individual Amusement Devices.

1. Chair lifts and Trams shall be designed and maintained per ANSI B77.1 1982 and all supplements thereto. Compliance with the requirements of any later edition published by the American National Standards Institute shall be accepted by the Commissioner as compliance with this section.

2. Go Carts.

A. All wheel wells must be enclosed, except for Grand Prix style cars which race individually.

B. All tracks must have a liner rail, except for Grand Prix style cars which race individually.

C. Helmets must be provided for all patrons desiring to use them.

HISTORY: Added by State Register Volume 12, Issue No. 5, eff May 27, 1988. Amended by State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4500. Insurance Bond, or Other Security.

1. Before any permit can be issued, the owner must file with and have accepted by the Commissioner an approved Certificate of Insurance against liability for injury to persons arising out of the use of an amusement device, to be in an amount not less than that specified by South Carolina Code of Laws, 1976, Title 41, Chapter 18, as amended.

2. Evidence of insurance may be:

A. A policy of insurance procured from one or more insurers acceptable to the Chief Insurance Commissioner of South Carolina as either:

(1) Licensed to transact insurance in South Carolina;

(2) Approved as a non-admitted surplus lines carrier for risks located in this State;

B. Cash or other security acceptable to the Commissioner of Labor.

3. The Commissioner shall not accept any policy of insurance unless it shall obligate the insurer to give written notice to the Commissioner thirty (30) days before any proposed cancellation, suspension or non-renewal of the policy. The Commissioner shall make available upon request an approved endorsement form.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4600. Permit Required.

1. Before beginning operation of any amusement device within South Carolina, the owner shall have posted on the amusement device a valid permit to operate issued by the Commissioner. A permit to operate is valid for a period of one calendar year terminating on December 31 of the year issued.

2. All new amusement devices permitted within South Carolina beginning July 1, 1993, shall meet the requirements of the 1992 edition of ASTM Standards on Amusement Rides and Devices, and the South Carolina Amusement Ride Code and any later editions; or be certified by a licensed architect or professional engineer.

3. A complete set of manuals for assembly, maintenance and operation of the device shall be maintained by the owner. All manuals shall be in English. If manufacturer's manuals or guidelines are not available, the owner shall use manuals or guidelines for devices similar in design and function.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4610. Permit Application Requirements.

1. Each application for a permit shall be in writing and received by the Commissioner no less than ten (10) days before the first intended date of use.

2. Each permit application shall include the following information:

A. Name of the owner of the amusement device;

B. The address of the owner;

C. The name of the state under whose laws the owner is incorporated (if incorporated);

D. The model number and serial number of the amusement device and name and address of manufacturer;

E. Acceptable evidence of the liability insurance policy, bond, or other security covering the amusement device. The Commissioner may, at his discretion, require submission of the complete copy of insurance; and

F. A notarized inspection report by a special inspector or in the alternative, a request for inspection by the Department.

3. In addition, each application for a permit for a temporary device shall include the following information:

A. Planned schedule of appearances in South Carolina, including dates and locations; and

B. Name of sponsor or land owner at each location where use is planned.

4. Owners of temporary amusement devices shall supply the Department with the local phone number on each site of operation, before the end of the same business day that the number is assigned by the telephone company, if a telephone is located at such site.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4700. Fee Schedule.

1. A. Upon application for a permit with a request for inspection by the South Carolina Department of Labor, Licensing and Regulation, Division of Labor, an annual fee shall be charged at the rate of:

Kiddie device	$50.00
Major/spectacular devices	$100.00
Mobile/fixed roller coasters	$250.00

B. Fees under 71–4700 include one permit inspection. Any return inspection resulting from the owner's failure to comply, will be charged at a rate of $75 per hour in addition to the annual fee, including travel time.

2. Any application for annual permit which is accompanied by an inspection report by an approved special inspector shall be charged an annual permit fee at the rate of $50.00 for each device covered by that permit application.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 28, Issue No. 3, eff March 26, 2004; SCSR 42–5 Doc. No. 4794, eff May 25, 2018.

71–4800. Qualifications of Approved Special Inspectors.

1. A special inspector shall have the following qualifications:

A.(1) At least five (5) years experience in amusement device maintenance and safety and completion of approved courses in materials inspection and testing and in fasteners or in the alternative.

(2) A four-year college degree in engineering or architecture with a minimum of twelve (12) semester hours of course work in the area of mechanics and strength of materials.

B. Evidence of successful completion of an approved Rides Safety Inspection course within the previous two (2) calendar years.

2. Each applicant for approval as a special inspector shall submit with his annual application evidence of insurance against errors and omissions (or approved general liability insurance) covering inspections of amusement rides and devices in an amount of no less than $500,000 per occurrence, procured from one or more insurers licensed to transact insurance in South Carolina or approved as a non- admitted surplus lines carrier for risks located in this State. Each policy, by its original terms or an endorsement, shall obligate the insurer that it will not cancel, suspend, or nonrenew the policy without thirty (30) days written notice of the proposed cancellation, suspension, or nonrenewal and a complete report of the reasons for the cancellation, suspension, or nonrenewal being given to the Director of the Department of Labor, Licensing and Regulation. In the event the liability insurance is cancelled, suspended or nonrenewed, the insurer shall give immediate notice to the Director.

3. Each applicant for approval as a special inspector shall submit with his annual application a license fee in the amount of $200.00.

4. Applications for approval as a special inspector shall be made annually on a form to be provided by the Director.

5. Special inspectors shall conduct all follow up, safety related complaint inspections, and abatement inspections as called for by the division and shall be responsible for submitting all associated paperwork.

6. Special inspectors shall record and report the findings of all inspections conducted pursuant to S.C. Code 41–18–10 et seq. on forms supplied by the Department. Special inspectors shall execute and convey the form in a manner prescribed by the Department. The Director may suspend or revoke a special inspector's license for failure to complete the inspection form as prescribed by the Department. The Director may also suspend or revoke a special inspector's license for any misrepresentation or omission of any material fact related to the inspection. In addition to the foregoing, the director may withhold issuance of an Operating Certificate for failure to complete the inspection form as prescribed by the Department or misrepresentation or omission of any material fact related to the inspection.

7. Any special inspector may have his license revoked or may have a license denied to him who:

A. uses or discloses information gained in the course of or by reason of his official position for any purpose other than making official inspections;

B. receives compensation to influence his inspections;

C. uses a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure as a special inspector;

D. has had a license to practice a regulated profession or occupation including special inspector in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;

E. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;

F. has intentionally used a fraudulent statement in a document connected with practice as a special inspector;

G. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

H. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

I. lacks the professional or ethical competence to practice as a special inspector;

J. has been convicted of or has pled guilty to or *nolo contendere* to a felony or a crime involving drugs or moral turpitude;

K. has practiced as a special inspector while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice as a special inspector;

L. has sustained a physical or mental disability which renders further practice dangerous to the public;

M. has violated a provision of this article or of a regulation promulgated under this article.

8. Any special inspector whose license has been revoked or to whom a license has been denied may appeal this decision to the Director or his designee within thirty days of receipt of written notice of the decision revoking or denying his license. The Director or his designee will conduct a hearing to review the decision and will issue a written order of decision thereafter.

9. Any person aggrieved by the final action of the Director may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the Director's decision pending completion of the appellate process.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 28, Issue No. 3, eff March 26, 2004; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 38, Issue No. 6, Doc. No. 4382, eff June 27, 2014.

71–4910. Procedure for Hearing Contested Notices of Non–Compliance and Assessments of Penalty.

1. Any owner to whom a Notice of Non-Compliance or Notice of Proposed Penalty has been issued may serve a Notice of Protest upon the Commissioner within thirty (30) days of the receipt by the owner of the Notice of Non-Compliance or of the Notice of Proposed Penalty.

2. Notice of Hearing

A. Service: Upon receipt of a Notice of Protest or any Notice of Non-Compliance by any owner of any amusement device, the Commissioner shall serve notice of a hearing to be held to determine the issues.

B. Contests: The notice of hearing shall include:

(1) Time, place, and nature of the hearing. The time shall be at least thirty (30) days from the service of notice of hearing unless the owner shall ask in writing for a shorter time;

(2) A short statement of the issues involved; and

(3) Designation of the representative of the Commissioner who shall conduct the hearing as Hearing Examiner.

3. Hearing Procedure

A. The Hearing Examiner will explain briefly the purpose and nature of the hearing, will ascertain who will present the case for each of the parties, and will hear all preliminary matters.

B. All persons who give testimony shall be sworn.

C. A party shall be entitled to present all relevant facts by oral or documentary evidence or by affidavit if the parties so agree.

D. Opposing parties shall have the right to cross-examine any witness whose testimony is introduced.

E. A business entity which owns an amusement device may be represented at any hearing by an attorney licensed to practice in South Carolina, or by an officer or employee of the entity.

4. Within a reasonable time after the Hearing Examiner has heard all evidence and considered any written briefs or memoranda submitted, he shall make a written recommendation to the Commissioner. The Commissioner shall then make his final disposition of the proceedings and shall serve it upon all parties.

5. The Commissioner of Labor shall maintain a record of the proceedings which shall include testimony and exhibits.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4920. Procedure for Applications for Variance.

1. Any amusement device owner may apply to the Commissioner of Labor for a variance, either temporary or permanent, from any rule or regulation under this article.

2. Such variance shall be granted at the discretion of the Commissioner if the owner establishes by sufficient evidence that:

A. He is unable to comply with a rule or regulation because of unavailability of professional or technical personnel or data or of materials and equipment needed to come into compliance with the rule or regulation; and

B. He is taking effective alternative steps to safeguard the public against the hazard covered by the rule or regulation.

3. A variance application shall include:

A. The name and address of the petitioner;

B. Identifying information concerning the amusement device for which the variance is sought;

C. A specification of the standard or portion thereof from which the petitioner seeks a variance;

D. A representative by the petitioner, supported by representations from qualified persons having first-hand knowledge of the facts represented, that he is unable to comply with the standards or portion thereof and detailed statement of the reasons thereof;

E. A statement of the steps the petitioner has taken or will take, with specific dates where appropriate, to protect the public against the hazard covered by the standard; and,

F. Where a temporary variance is sought, a statement of the time required to achieve compliance with the standard, not to exceed two (2) years.

HISTORY: Added by State Register Volume 11, Issue No. 6, effective June 26, 1987. Amended by State Register Volume 12, Issue No. 5, effective May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–4950. [Information to be Made Available to Commissioner.]

The owner shall be responsible for maintaining and making available to the Commissioner all information required by the Amusement Ride Safety Code and these regulations. This information shall be made available to the Commissioner upon request.

HISTORY: Added by State Register Volume 12, Issue No. 5, eff May 27, 1988. Amended by State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

ARTICLE 5
SAFETY STANDARDS FOR ELEVATOR FACILITIES

71–5000. Purpose and Definitions.

1. Chapter 16 of Title 41, South Carolina Code of Laws, 1976 (as amended) provides that the Commissioner of Labor promulgate regulations governing maintenance, construction, alteration, and installation of elevator facilities and the inspection and testing of new and existing elevator installations so as to provide for the public safety and protect the public welfare. It is the purpose of these regulations to set minimum acceptable safety standards for the construction, alteration, maintenance, inspection, testing and operation of elevator facilities in South Carolina.

2. All definitions found in Section 41-16-20 apply to these regulations.

A. "Serious injury" means an injury that results in death or which requires immediate in-patient hospitalization. Fractures and disfigurements are considered serious injuries, even where no hospitalization is required.

B. "Imminent danger" means a condition which exists due to a design, mechanical, structural or electrical defect which presents an excessive risk of serious injury to passengers, operators, or the general public.

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1997; State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–5100. Safety Standards for New Installations.

(Statutory Authority: 1976 Code §§ 41-16-10 et seq.)

1. All facilities installed after July 1, 1986, shall comply with the officially adopted editions of the ASME A17.1 Elevator Code and all supplements thereto, at the time the permit is issued. In the alternative, manlifts may comply with the 1992 editions of the ANSI A90.1 Safety Standards for Manlifts and all supplements thereto. In the alternative platform and stairway chairlifts may comply with ANSI A18.1 and all supplements thereto. Compliance with any later edition of the required safety codes shall be accepted by the director as compliance with the section.

2. All new facilities shall be free from recognized hazards or defects which may cause serious injury.

3. All safety devices provided by the manufacturer and installed on any new installation shall be maintained so as to operate properly per manufacturer's specifications or be replaced with equivalent equipment.

4. Miscellaneous Safety Requirements for New Installations:

A. A 17.1 , Rule 100.7 is repealed. Substitute Rule 5100-4 A to read in its entirety–Hoistway doors shall have floor numbers, not less than four inches in height, located on the hoistway side of the door within the area allowable for opening by the door restrictor.

B. Electrolysis protection for underground hydraulic elevator cylinders. All newly installed underground hydraulic pressure cylinders shall be encased in an outer plastic containment to minimize electrolytic corrosion.

(1) The plastic casing shall be capped at the bottom and all joints must be solvent or heat welded to insure water tightness.

(2) The plastic casing shall be constructed of polyethylene or polyvinyl chloride (PVC). The plastic pipe wall thickness must not be less than .125 inches (3.551mm).

(3) Replacements of existing hydraulic cylinders shall be protected by the aforementioned method where existing physical dimensions permit.

C. The key switches required to operate firefighters' service on Phase I and II shall use a five pin key, S.C. #1000.

D. A17.1, Rule 106.1(b)(3) is repealed. Sump pumps or drains are not required in elevator pits by these regulations. Where indicated by design consideration, sump pumps or drains shall comply with ANSI A17.1, Rule 106.1(b)(3).

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 13, Issue No. 5, eff May 26, 1989; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 24, Issue No. 4, eff April 28, 2000.

71–5200. Safety Standards for Existing Facilities.

1. All facilities for which construction or relocation was begun or which were in operation prior to July 1, 1986, in South Carolina shall comply with the requirements of the 1986 edition of the ANSI A17.3, the American National Standard Safety Code for Existing Elevators and Escalators. In the alternative, manlifts may comply with the 1985 edition of the ANSI A90.1 Safety Standards for Manlifts and all supplements thereto; existing power sidewalk elevators may comply with A17.1, 1987 edition, part IV; existing hand and power dumbwaiters may comply with A17.1, 1987 edition, part VII; existing special purpose personnel elevators may comply with A17.1, 1987 edition, part XV; and existing inclined stairway chairlifts and vertical wheel chair lifts may comply with A17.1, 1987 edition, part XX or part V, provided the lift is key operated and a sign is installed stating "for handicap use only". Compliance with the requirements of any later edition of the required safety codes shall be accepted by the Commissioner as compliance with this section.

2. All existing facilities shall be free from recognized hazards or defects which may cause serious injury.

3. All safety devices provided by the manufacturer and installed on any existing facility shall be maintained so as to operate properly per manufacturer's specifications, or replaced with equivalent equipment.

4. Miscellaneous Safety Requirements for Existing Facilities.

A. All sumps in pits shall be covered. The cover shall be level with the pit floor.

B. Except where compensating chains or ropes are attached to the counterweight, all counterweights shall be provided with a guard of sufficient size and strength to prevent accidental contact with the counterweight while working in the pit. Where existing clearance does not permit a guard, a warning chain attached to the counterweight would meet this requirement.

C. A permanent lighting fixture shall be provided in all pits, which shall provide an illumination of not less than five (5) footcandles (54 lux) at the pit floor. A light switch shall be located so as to be accessible from the pit access door.

D. Each elevator shall be equipped with switches to interrupt electric power to the elevator driving machine motor and brake. The switches shall be conspicuously marked "Stop" and "Run".

(1) A switch shall be located so as to be accessible from the entry into the pit. If the pit is deeper than seven (7′) feet there shall be an additional stop switch which is accessible from the pit floor.

(2) A switch shall be located so as to be accessible from the door to all auxiliary machinery spaces.

E. Escalators shall be equipped with a stop switch located so as to be accessible from the point of access into the machinery space. When opened, this switch shall cause the electric power to be removed from the escalator driving machine motor and brake. The switch shall be conspicuously and permanently marked "Stop" and "Run". No additional stop switch is required when the main disconnect switch is in the machinery space.

F. All ladders in pits shall be mounted adjacent to the side of the door where the unlocking device is located unless clearances prevent this.

G. All light fixtures shall be guarded and maintained in a fully operational condition.

H. Counterweight runby shall not be less than the setting of the top final limit plus two (2) inches,

I. Emergency signaling devices for facilities in unattended buildings shall have a minimum sound rating of 80 db measured ten (10) feet from the device.

J. [Deleted].

K. Car gates, when fully closed, shall extend from the car floor to a height of not less than six (6) feet, where existing overhead clearances permit.

L. All passenger elevators shall be equipped with a standby power source capable of operating emergency lighting and the alarm bell for a period of at least four (4) hours in the event the normal power source fails. No less than two (2) lamps shall be used for emergency lighting.

M. A17.3, Rule 3.11.3 is repealed. Substitute Rule 5200 4 M to read in its entirety:

(1) All automatic (non-designated attendant) operation elevators having a travel of fifty-four (54) feet from the lowest point of entry to the building shall conform to the requirements of ANSI/ASME A17.1, 1987 edition, Rules 211.3 through 211.8.

(2) All elevators having car switch operation or constant pressure operation or manual door opening and closing or nuclear facilities employing high radiation are not required to install Firemans Service.

(3) All existing installations shall have a conspicuous sign installed at each landing immediately adjacent to the push button station to inform the public that in a fire emergency they should not use the elevator but should use the exit stairs.

N. A17.3, Rule 2.7.4 is repealed. Substitute Rule 5200 4 N to read in its entirety: All passenger elevators installed within dormitories, apartment building, motels, hotels, and schools shall comply with the following:

(1) When a car is outside the unlocking zone, the hoistway doors or car doors shall be so arranged that the hoistway doors or car doors cannot be opened more than four (4) inches (102mm) from inside the car.

(2) When the car doors are so arranged that they cannot be opened when the car is outside the unlocking zone, the car doors shall be able to open from outside the car without the use of special tools.

(3) The unlocking zone shall extend from the landing floor level to a point no greater than eighteen (18) inches (457mm) above or below the landing floor level.

O. The owner of an existing facility whose car enclosure is being altered with materials or design different from the original must obtain an alteration permit from the department. At the completion of the alteration, an appropriate test for rated speed and rated load must be performed.

P. All existing passenger elevators equipped with door restrictors shall be provided with floor numbers conforming to the requirements of 71-5100-4-B.

Q. The owner of every facility shall have available on the premises any keys needed for access to machinery spaces and operation of the facility.

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 13, Issue No. 5, eff May 26, 1989; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 24, Issue No. 4, eff April 28, 2000.

71–5300. Permits and Certificate Required.

1. Construction Permits:

A person, firm or corporation shall not erect, construct, alter or install after July 1, 1986, any facility without first obtaining from the Commissioner a construction permit for such work.

2. Registration and Operating Certificate:

A person, firm, or corporation shall not operate any facility serving any building or structure without a certificate of registration and an operating certificate issued by the Commissioner of Labor.

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 28, Issue No. 3, eff March 26, 2004.

71–5310. Application for Construction Permit, Elevator Registration, and Operating Certificate.

1. Each application for a construction permit for new installation, alteration, or relocation shall be made on a form provided by the Commissioner and shall include three (3) copies of:

A. Detailed plans including:

(1) Sectional plan of car and hoistway;

(2) Sectional plan of machine room;

(3) Sectional elevation of hoistway and machine room, including the pit, bottom and top clearance of car, and counterweight;

(4) Size and weight of guide rails, and guide rail bracket spacing.

B. Name and address of the person who designed the installation for which plans are submitted; and

C. Statement of Contract Price.

2. Each application for a facility registration shall be made on a form provided by the Commissioner and shall include the following for each facility:

A. Name and address of the owner;

B. Location;

C. Manufacturer;

D. Model or Type;

E. Contract load and speed;

F. Purpose or use;

G. Date of installation; and

H. Number of floors.

3. If an owner of a registered facility desires the Department to perform the annual inspection necessary to obtain an operating certificate, no further application for inspection by the Department to obtain an operating certificate is necessary.

4. If an owner desires a special inspector to perform the annual inspection necessary to obtain an operating certificate, the owner shall notify the Department of his intention in writing no less than ninety (90) days prior to the expiration date of the existing operating certificate. The notification must contain the following information:

A. Date;

B. Elevator number and location;

C. Date of Last inspection;

D. Special inspector name and I.D. number;

E. Owner name;

F. Name, signature and title of the individual requesting the special inspector.

Upon request, the Department will provide a form for the owner to submit the above information. This form will be provided free of charge.

After the initial request for use of a special inspector has been made, the licensed special inspector may, in the alternative to further individual annual requests for special inspection, file during the month of January a list of all facilities for which he has inspection contracts for the calendar year. This list shall include:

A. Elevator number and location;

B. Owner's name and name and title of individual contracting with special inspector;

C. Date of last inspection.

In the event a special inspector's contract is cancelled by the owner, the special inspector shall notify the department, in writing, within 30 days. A report of an inspection made not more than thirty (30) days prior to the expiration date of the existing operating certificate must be filed with the Department. The inspection report must be on a form provided by the Department and be received by the Department no later than the expiration date of the existing operating certificate. Where the owner fails to submit a timely notice of inspection by a special inspector or report of inspection, the Department will inspect according to 71-5310 Section 3, whether the request for special inspection was made under paragraph 1 or 2 above.

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 13, Issue No. 5, eff May 26, 1989; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–5400. Qualification of Special Inspectors.

1. Any applicant for a license as a special inspector shall present evidence of all qualifications as stated in the 1984 edition of QEI-1, The American National Standard for Qualification of Elevator Inspectors, and supplements thereto as adopted by the American National Standards Institute. Submission of a copy of a valid Inspector's Certificate issued by any authority accredited by the American Society of Mechanical Engineers shall be evidence that the applicant has all required qualifications.

2. Each applicant for approval as a special inspector shall submit with his annual application evidence of insurance against errors and omissions (or approved general liability insurance) covering inspections of elevators in an amount of no less than $500,000 per occurrence, procured from one or more insurers licensed to transact insurance in South Carolina or approved as a non-admitted surplus lines carrier for risks located in this State. Each policy, by its original terms or an endorsement, shall obligate the insurer that it will not cancel, suspend, or nonrenew the policy without thirty (30) days written notice of the proposed cancellation, suspension, or nonrenewal and a complete report of the reasons for the cancellation, suspension, or nonrenewal being given to the Commissioner. In the event the liability insurance is cancelled, suspended or nonrenewed, the insurer shall give immediate notice to the Commissioner.

3. Special inspectors shall conduct all follow-up, safety related complaints, and abatement inspections as called for by the division and shall be responsible for submitting all associated paperwork.

4. Special Inspectors shall record and report the findings of all inspections conducted pursuant to S.C. Code 41–16–10 et seq. on forms supplied by the Department. Special inspectors shall execute and convey the form in a manner prescribed by the Department. The Director may suspend or revoke a special inspector's license for failure to complete the inspection form as prescribed by the Department. The Director may also suspend or revoke a special inspector's license for any misrepresentation or omission of any material fact related to the inspection. In addition to the foregoing, the Director may withhold issuance of an Operating Certificate for failure to complete the inspection form as prescribed by the Department or misrepresentation or omission of any material fact related to the inspection.

5. Any special inspector may have his license revoked or may have a license denied to him who:

A. uses or discloses information gained in the course of or by reason of his official position for any purpose other than making official inspections;

B. receives compensation to influence his inspections;

C. uses a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure as a special inspector;

D. has had a license to practice a regulated profession or occupation including special inspector in another state or jurisdiction canceled, revoked, or suspended or who has otherwise been disciplined;

E. has intentionally or knowingly, directly or indirectly, violated or has aided or abetted in the violation or conspiracy to violate this article or a regulation promulgated under this article;

F. has intentionally used a fraudulent statement in a document connected with practice as a special inspector;

G. has obtained fees or assisted in obtaining fees under fraudulent circumstances;

H. has committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public;

I. lacks the professional or ethical competence to practice as a special inspector.

J. has been convicted of or has pled guilty to or *nolo contendere* to a felony or a crime involving drugs or moral turpitude;

K. has practiced as a special inspector while under the influence of alcohol or drugs or uses alcohol or drugs to such a degree as to render him unfit to practice as a special inspector;

L. has sustained a physical or mental disability which renders further practice dangerous to the public;

M. has violated a provision of this article or of a regulation promulgated under this article.

6. Any special inspector whose license has been revoked or to whom a license has been denied may appeal this decision to the Commissioner or his designee within thirty days of receipt of written notice of the decision revoking or denying his license. The Commissioner or his designee will conduct a hearing to review the decision and will issue a written order of decision thereafter.

7. Any person aggrieved by the final action of the Commissioner may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court. Service of a petition requesting a review does not stay the Commissioner's decision pending completion of the appellate process.

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 38, Issue No. 6, Doc. No. 4382, eff June 27, 2014.

71–5500. Inspections.

1. All components, devices, and equipment, structures and other related items for facilities shall be inspected upon initial installation or registration, or at the time of alteration or repair prior to issuing an operating certificate and a minimum of one (1) time per year thereafter, prior to renewing an operating certificate.

Exceptions:

a) All nuclear facilities employing high radiation shall be inspected at least once every two (2) years or before use by workers during routine plant shutdown. Such inspections may be scheduled to coincide with routine plant shutdown.

b) Dumbwaiters shall be inspected each time they are installed or altered.

c) Handicap lifts shall be inspected every five (5) years.

d) Manlifts, television tower elevators and special purpose elevators shall be inspected every seven (7) years.

2. Nothing in this section shall be construed to prevent inspections by the State Engineer, the State Fire Marshal, a representative of the South Carolina Board for Barrier Free Design and/or Local Building Officials, within their respective jurisdictions of the facilities, equipment, components, shafts, lobbies and equipment rooms for compliance with any approved codes or standards not part of these rules and regulations.

3. An operating certificate shall be displayed in a conspicuous location within each elevator car, or on a permanent object adjacent to all other types of facilities. In the alternative, a facsimile copy of the original operating certificate may be posted within each elevator car or on a permanent object adjacent to all other types of facilities.

4. Expiration dates within a building may be standardized by pro-rating inspection dates and fees.

5. An owner who desires to operate a new elevator facility on a temporary basis pending completion of a project may apply for a temporary operating certificate. A temporary operating certificate, good for sixty (60) days, will be granted where:

A. the facility is not available for public use;

B. the facility is operated by a qualified operator;

C. the facility complies with all requirements of the ANSI A17.1 and SBC and NEC except:

(1) Smoke detectors

(2) Fire Service

(3) Finished floor in car

(4) Photo eyes

(5) Telephone

(6) Shunt trip disconnect for sprinklers

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 13, Issue No. 5, eff May 26, 1989; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 28, Issue No. 3, eff March 26, 2004.

71–5550. Accidents and Dangerous Facilities.

1. When an accident occurs involving a covered facility and an employee(s) of the owner or lessee, the owner or lessee shall report the accident according to the applicable Occupational Safety and Health regulations, South Carolina Rules and Regulations, Chapter 71, Article 1, Subarticle 3. The owner or lessee of any facility which, during the course of its operation, is involved in an accident which results in a serious injury to any person other than an employee shall report the injury to the Commissioner before the end of the next working day.

The report will include the names and addresses of the injured parties, the hospital where treatment was rendered, type of injuries, type of device involved owner, and any other information pertaining to the events leading up to the nature of and the outcome of the accident, as well as the status of the device involved in the accident.

2. If the inspector finds that a facility presents an imminent danger, he will notify in writing the facility operator, owner or lessee. If the facility is not immediately removed from service, the inspector will file a report of the imminent danger with the Commissioner of Labor. A temporary or permanent restraining order will be sought where appropriate.

HISTORY: Added by State Register Volume 11, Issue No. 6, eff June 26, 1987. Amended by State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–5600. Fee Schedules.

1. Construction Permits

A. The fee for a construction permit shall include the fee for registration and the first annual operating certificate of a facility.

Contract Price/Per Facility	Fee
$1 - $ 10,000	$250.00
$ 10,001 - $ 30,000	$295.00
$ 30,001 - $ 50,000	$345.00
$ 50,001 - $ 80,000	$390.00
$ 80,001 - $ 100,000	$410.00
$100,001 - $200,000	$460.00
$200,001 - and up	$510.00

B. Fees under 71–5600 include one turn-over inspection. Any return turn-over inspection, for failing to comply, will be charged at a rate of $75.00 per hour including travel time.

C. A fee of $250.00 will be charged upon issuance of a temporary certificate, good for a period of no more than sixty (60) days. At the end of sixty (60) days the owner may a) apply for a renewal of a temporary certificate with a fee of $250.00; b) have the elevator ready for a complete turnover inspection; or c) remove the elevator from service.

2. Operating Certificate:

A.(1) The fee for an annual operating certificate, after registration, whether initial or renewal, with inspection by the South Carolina Department of Labor, Licensing and Regulation shall be as follows:

Number of Floors	Fee
2 to 5	$125.00
6 to 12	$150.00
13 and above	$175.00

(2) The fee for an operating certificate, after registration whether initial or renewal, with inspection by the South Carolina Department of Labor, Licensing and Regulation shall be as follows:

Type of Elevator	Fee
Handicap lifts	$75.00 every five years
Manlifts	$200.00 every seven years
Television tower	$300.00 every seven years

Special Purpose Personnel Elevators:

2–5 floors	$125.00 every seven years
6–12 floors	$150.00 every seven years
13 and above floors	$175.00 every seven years

B. The fee for an annual operating certificate, after registration, whether initial or renewal, upon report of a special inspection shall be $50.00 per facility.

C. The fee for a reinspection due to failure to make timely corrections of all deficiencies noted in an annual inspection report will be $75.00 per hour of inspection time, including travel time.

3. License for Special Inspector:

A. The fee for an annual license as a special inspector shall be $200.00.

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 13, Issue No. 5, eff May 26, 1989; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993; State Register Volume 27, Issue No. 6, Part 2, eff June 27, 2003; State Register Volume 28, Issue No. 3, eff March 26, 2004; SCSR 42–5 Doc. No. 4793, eff May 25, 2018.

71–5700. Procedure for Hearing Contested Citations and Assessments of Penalty.

1. Any owner aggrieved by any action taken pursuant to these rules may file a Notice of Protest within thirty (30) days of the date of the action protested.

2. Notice of Hearing.

A. Service: Upon receipt of a Notice of Protest by any owner of any facility, the Commissioner shall serve notice of the time, place, and nature of a hearing to be held to determine the issues.

B. Contests: The Notice of Hearing shall include:

(1) Time, place, and nature of the hearing. The time shall be at least thirty (30) days from the service of Notice of Hearing unless the owner shall ask in writing for a shorter time;

(2) A short statement of the issues involved; and

(3) Designation of the representative of the Commissioner who shall conduct the hearing as Hearing Examiner.

3. Hearing Procedures.

A.(1) The Hearing Examiner will explain briefly the purpose and nature of the hearing, will ascertain who will present the case for each of the parties, and will hear all preliminary matters.

(2) All persons who give testimony shall be sworn.

(3) A party shall be entitled to present all relevant facts by oral or documentary evidence or by affidavit if the parties so agree.

(4) Opposing parties shall have the right to cross-examine any witness whose testimony is introduced.

(5) In all proceedings commenced by the filing of a Notice of Protest, the burden of proof shall rest with the Department of Labor.

(6) A business entity which owns a facility may be represented at any hearing by an attorney licensed to practice in South Carolina, or by an officer or employee of the entity. Where the owner contracts with a property manager whose regular duties include management of the licensed facility, an officer or employee of the property manager may represent the owner.

B. Within a reasonable time after the Hearing Examiner has heard all evidence and considered any written briefs or memoranda submitted, he shall make a written recommendation to the Commissioner. The Commissioner shall then make his final disposition of the proceedings and shall serve it upon all parties.

C. The Commissioner of Labor shall maintain a record of the proceedings which shall include testimony and exhibits.

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–5800. Procedure for Application for Variance.

1. Any owner of any facility may apply to the Commissioner of Labor for a variance, either temporary or permanent, from any rule or regulation under this article.

2. Such variance shall be granted at the discretion of the Commissioner if the owner establishes by sufficient evidence that:

A. He is unable to comply with a rule or regulation because of unavailability of professional or technical personnel or data or of materials, design or equipment needed to come into compliance with the rule or regulation; and

B. He is taking alternative steps to safeguard against the hazard covered by the rule or regulation.

3. A variance application shall include:

A. The name and address of the petitioner;

B. Identifying information concerning the facility for which the variance is sought;

C. A specification of the standard or portion thereof from which the petitioner seeks a variance;

D. A representation by the petitioner, supported by statements from qualified persons having first-hand knowledge of the facts represented, that he is unable to comply with the standards or portion thereof and detailed statement of the reasons thereof;

E. A statement of the steps the petitioner has taken or will take, with specific dates where appropriate, to protect against the hazard addressed by the standard; and,

F. Where a temporary variance is sought, a statement of the time required to achieve compliance with the standard, not to exceed two (2) years.

HISTORY: Added by State Register Volume 10, Issue No. 6, dated June 27, 1986, eff July 1, 1986. Amended by State Register Volume 11, Issue No. 6, eff June 26, 1987; State Register Volume 12, Issue No. 5, eff May 27, 1988; State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

71–5900. Effective Date.

The effective date of these regulations shall be July 1, 1986.

Article 6
Payment of Wage Administrative Appeals Hearings

71–6000. Procedures for Hearing Payment of Wages Administrative Appeals

1. Any employer aggrieved by any citation or penalty assessed pursuant to South Carolina Code Section 41-10-80 may file a Notice of Protest within thirty (30) days of the date of the action protested.

2. Notice of Hearing

a. Upon receipt of a Notice of Protest, the Commissioner shall serve notice of the time, place, and nature of a hearing to be held to determine the issues.

b. The notice of hearing shall include the designation of the representative of the Commissioner who will conduct the hearing as Hearing Examiner, a short statement of the issues involved, and notice of the time and place of the hearing. The time shall be at least thirty (30) days from the service of the notice of hearing unless the employer makes a written request for a shorter time.

3. Hearing Procedure

a. An employer may appear in person or be represented by a lawyer licensed to practice in South Carolina or by a officer or employee of the business.

b. Upon opening the hearing, the hearing examiner will explain briefly the purpose and nature of the hearing, will ascertain who will present the case for each of the parties, and will hear all preliminary matters.

c. All persons who give testimony will be sworn.

d. A party may present all relevant facts by oral or documentary evidence or by affidavit if the parties so agree.

e. Opposing parties shall have the right to cross-examine any witness whose testimony is introduced.

f. In all proceedings commenced by the filing of a Notice of Protest the burden of proof will rest with the Department of Labor.

g. Within a reasonable time after the hearing examiner has heard all evidence and considered any briefs or memoranda submitted, he shall make a written recommendation to the Commissioner. The Commissioner will then make his final disposition of the proceeding and serve it upon the parties.

h. The failure of a protesting party to appear at a hearing shall be deemed a withdrawal of the Notice of Protest and a waiver of all rights except the right to be served with a copy of the order of the Commissioner. Any party who fails to appear without good cause after receiving notice of the time and place of hearing may be taxed with the costs of that hearing in the amount of One Hundred ($100) dollars.

HISTORY: Added by State Register Volume 17, Issue No. 5, Part 3, eff May 28, 1993.

ARTICLE 7
PYROTECHNIC SAFETY

71–7405. PYROTECHNIC SAFETY.

71–7405.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, and licensees from the manufacture, storage, sale and possession of fireworks in South Carolina.

B. This regulation shall apply to:

1. The manufacture, sale, storage, and possession of fireworks.

2. The licensing of persons or entities manufacturing, selling or storing fireworks.

C. This regulation shall not apply to:

1. The handling, use, and transportation of pyrotechnics and fireworks regulated by the Office of State Fire Marshal pursuant to SCRR 71–8300, et seq.

2. The transportation, handling, and/or use of fireworks by the State Fire Marshal, his employees, or any commissioned law enforcement officers acting within their official capacities.

3. Fireworks when regulated by the U.S. Department of Transportation.

4. Weapons used in enactments, when there is no projectile.

5. The outdoor use of model rockets within the scope of NFPA 1122.

D. Definitions

1. "Board" means The State Board of Pyrotechnic Safety.

2. "Consumer Fireworks" means any small device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336, and UN0337 by the U.S. Department of Transportation at 49 CFR 172.101. This term does not include fused set pieces containing components, which together exceed 50 mg of salute powder. Consumer Fireworks are further defined as those classified by the U.S. Department of Transportation hazard classification 1.4G. These fireworks were formerly known as "Class C Fireworks."

3. "Department" means The South Carolina Department of Labor, Licensing and Regulation.

4. "Display Fireworks" means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "Consumer Fireworks." Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by the U.S. Department of Transportation at 49 CFR 172.101. This term also includes fused set pieces containing components, which together exceed 50 mg of salute powder. Display fireworks are further defined as those classified by the U.S. Department of Transportation as hazard classification 1.3G. These fireworks were formerly known as "Class B Fireworks."

5. "Fireworks" means any composition or device designed to produce a visible or an audible effect by combustion, deflagration or detonation, and which meets the definition of "consumer fireworks" or "display fireworks" as defined by this section.

6. "Jobber" means a person or entity that only purchases consumer fireworks from a wholesale distributor licensed to do business in South Carolina and only sells consumer fireworks to retailers licensed to do business in South Carolina.

7. "Manufacturer" means a person or entity licensed to manufacture consumer or display fireworks in South Carolina.

8. "NFPA" means the National Fire Protection Association.

9. "Pyrotechnics" means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

10. "Retailer" means a person or entity that only purchases consumer fireworks from a wholesale distributor or jobber licensed to do business in South Carolina and only sells consumer fireworks to the general public.

11. "Temporary Retail Permit" is a Retail Permit valid for up to ninety (90) days.

12. "Wholesale Distributor" means a person or entity that may buy foreign or domestic fireworks, store fireworks, supply or sell fireworks to any person or entity holding the proper South Carolina license.

HISTORY: Added by State Register Volume 33, Issue No. 2, eff February 27, 2009.

71–7405.2. Codes and Standards.

A. The requirements of NFPA 1124, 2006 Edition, including Annex A, B, C, and D, shall constitute the minimum standards for manufacture, storage, and retail sales of all fireworks and pyrotechnic articles used in South Carolina, except as modified by these regulations.

HISTORY: Added by State Register Volume 33, Issue No. 2, eff February 27, 2009.

71–7405.3. Licensing and Permitting Fees.

A. All fees are due at time of application for licenses or permitting.

B. License or permit applications without inspections reports are due in the Department fifteen (15) business days before the start of operations. Applications submitted less than fifteen (15) business days before the start of operations will be subject to a $200 special processing fee.

C. License or permit applications, with inspections reports, are due in the Department two (2) business days before the start of operation. Applications submitted less than two (2) business days before the start of operation will be subject to a $200 special processing fee.

D. Fees for licenses and permits are:

1.	Manufacturer License	$2,000
2.	Wholesaler License	$1,250
3.	Jobber License	$500
4.	Retailer Permit (per location)	$200
5.	Temporary Retailer Permit (per location)	$100
6.	Display Magazine Permit	$100

E. When licensing inspections are performed by personnel of the Department, the fees stated are for one permit inspection. Any return inspection resulting from the owner's failure to comply will be charged at a rate of $75 per hour (including travel time) in addition to the annual fee.

F. Wholesaler License Fees includes up to five (5) Display Magazine Permits.

HISTORY: Added by State Register Volume 33, Issue No. 2, eff February 27, 2009.

71–7405.4. Licensing and Permitting Requirements.

A. Licenses are valid for up to one (1) calendar year. Licenses expire August 31 and must be renewed every year.

B. Permits are valid for up to one (1) calendar year. Licenses expire August 31 and must be renewed every year.

C. Temporary Retailer Permits expire when the underlying insurance expires or after ninety (90) days, whichever occurs first.

D. Before a license or permit may be issued, the facility must be inspected following the procedures set forth by the Board.

E. All facilities must be inspected by a county, city or state inspector on a form approved by the Board before the issuance of the license.

HISTORY: Added by State Register Volume 33, Issue No. 2, eff February 27, 2009.

71–7405.5. Supplemental Provisions for Sale of Pyrotechnics.

A. Each temporary structure shall be located in such a manner as to make it immobile and to prevent it from shifting or blowing over. Tie down devices may be affixed to prevent shifting or blowing over, and wheels shall be removed.

B. These general provisions do not exempt retail fireworks establishments from other rules and regulations where applicable.

C. The operator's, salesman's or handler's conduct or condition shall be as such as not to imperil the public safety.

D. The operator, salesman, or handler at a location selling retail fireworks shall be capable of reading, writing, speaking and understanding the English language at a level sufficient to read and explain all notices applicable to fireworks.

E. No person under the age of sixteen (16) shall be sold permissible fireworks.

F. All disputes arising as a result of these Rules and Regulations shall be referred to the Board.

1. Any party involved in a dispute arising under these Rules and Regulations may within fifteen (15) days of the occurrence giving rise to such dispute petition the Board, in writing via certified or registered mail, for an appearance before the Board. The petition shall plainly and substantially set

forth the details of the occurrence, including its time, location and date, and state petitioner's reasoning for request to appear before the Board.

2. The Board shall, within twenty (20) days of receipt of a written request for appearance, make a determination as to the necessity of the appearance and notify the petitioner, in writing via certified or registered mail, of its decision to grant or deny the appearance, and the reasons therefore.

G. No fireworks shall be permitted to be sold from vehicles such as vans, buses, automobiles, or any other motor driven vehicle.

H. The Board shall prohibit the retail sale of consumer fireworks from tents, canopies and membrane structures.

HISTORY: Added by State Register Volume 33, Issue No. 2, eff February 27, 2009.

71–7405.6. Wholesale Distributors and Jobbers.

A. All Wholesalers and Jobbers shall store permissible fireworks in their original packaging and in unopened cases or cartons, so as to take advantage of the insulation provided by such packaging, provided. However, unopened fireworks packages that have been returned by retailers for repackaging or resale may be temporarily retained in bins.

B. No person under the age of eighteen (18) shall be employed or allowed to participate as a handler of fireworks.

C. The salesman's or handler's conduct or condition of sobriety shall be such as not to imperil the public safety, and this individual shall be capable of reading, speaking and understanding the English language.

D. All disputes arising as a result of these rules and regulations shall be referred to the Board.

HISTORY: Added by State Register Volume 33, Issue No. 2, eff February 27, 2009.

71–7405.7. Storage of Display Fireworks.

A. Storage of all display fireworks must comply with:

1. NFPA 1124.

2. The requirements in 18 United States Code, Chapter 40 and 27 Code of Federal Regulations Part 55 as enforced by the Bureau of Alcohol, Tobacco and Firearms.

HISTORY: Added by State Register Volume 33, Issue No. 2, eff February 27, 2009.

71–7405.8. Sale of Display Fireworks.

A. Display fireworks may only be sold to persons that have been licensed by the proper state and federal agencies.

B. Each distributor of display fireworks shall provide to the purchaser necessary permit forms for fireworks displays in South Carolina, and all sales records shall be kept opened for inspection by the authorities for no less than twenty-four (24) months.

C. No one under the age of eighteen (18) shall be employed as a salesman or handler of display fireworks.

HISTORY: Added by State Register Volume 33, Issue No. 2, eff February 27, 2009.

Article 8
Office of State Fire Marshal
Subarticle 1
Fire Prevention and Life Safety

71–8300. Fire Prevention and Life Safety.

(Statutory Authority: 1976 Code Sections 23–9–60, 39–41–260, 40–82–70.)

71–8300.1. General.

A. Title. These regulations shall be known as the State Fire Marshal's Rules and Regulations.

B. Intent.

1. The purpose of these regulations is:

a. to safeguard to a reasonable degree, life and property from fire, explosion, dangerous conditions, natural disasters, acts of terrorism, and other hazards associated with the construction, alteration, repair, use, and occupancy of buildings, structures, or premises, and

b. to provide safety to fire fighters and emergency responders during emergency situations.

2. These regulations shall be the minimum standards required for fire prevention and life safety in South Carolina for all buildings and structures and shall not be waived.

C. Applicability.

1. These regulations shall apply to state, county, municipal, and private buildings, structures, or premises unless excluded by these regulations or state statute.

2. All buildings, structures, or premises shall be constructed, altered, or repaired in conformance with these regulations.

3. All equipment or systems in a building, structure, or premise shall be constructed, installed, altered, or repaired in conformance with these regulations.

4. These regulations become effective immediately upon the publication as final regulations in the South Carolina State Register.

5. These regulations shall not conflict with any state statute, code, or ordinance adopted pursuant to S.C. Code Ann. Section 6–9–5 et. seq., 1976, as amended, by any municipality or political subdivision. In the event of a conflict, such statute, code, or ordinance shall apply.

6. These regulations shall not apply to:

a. Buildings constructed, or occupied exclusively as one and two-family dwellings, unless amended by these or other state regulations. Conversion of such buildings to another use that is not regulated under the IRC but is regulated under the IBC is considered a change of occupancy, and such buildings must comply with the applicable provisions of the IBC for such a change of use.

D. Existing Buildings.

1. Unless addressed by requirements in these regulations, adopted codes, or state statutes that are indicated to be applicable to them, existing buildings, structures, or premises shall be permitted to continue in operation under the code applicable at the time when the buildings, structures, or premises were constructed.

2. Alterations, repairs, additions, and rehabilitation to an existing building, structure, or premise shall fully comply with the current codes.

3. Change of use or occupancy of an existing building shall comply with the current code requirements for change of occupancy classification.

E. Acronyms and Definitions: The following references apply throughout these regulations. Words not defined in these regulations shall have the meaning stated in the referenced codes and standards adopted by these regulations.

1. "AHJ" means Authority Having Jurisdiction, which is the SFM, or his agents, or any local fire official covered by S.C. Code Ann. Section 23–9–30, 1976, as amended.

2. "ATF" means the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.

3. "Bulk hydrogen compressed gas system" means an assembly of equipment that consists of, but is not limited to, storage containers, pressure regulators, pressure relief devices, compressors, manifolds, and piping with a storage capacity of more than 400 cubic feet (approximately 3000 gal.)

of compressed hydrogen gas (or 5000 scf), including unconnected reserves on hand at the site, and terminates at the source valve.

4. "Bulk liquefied hydrogen gas system" means an assembly of equipment that consists of, but is not limited to, storage containers, pressure regulators, pressure relief devices, vaporizers, liquid pumps, compressors manifolds, and piping, with a storage capacity of more than 39.7 gal. of liquidized hydrogen, including unconnected reserves on hand at the site, and terminates at the source valve.

5. "Citation" means a summons to appear before the OSFM because of a violation of any part or all of this regulation and may carry a monetary fine of up to $2,000 per violation.

6. "Consumer Fireworks" means any small device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in Title 16, Code of Federal Regulations, parts 1500 and 1507. Some small devices designed to produce audible effects are included, such as whistling devices, ground devices containing fifty (50) mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials. Consumer fireworks are classified as fireworks UN0336 and UN0337 by the USDOT at 49 CFR 172.101. This term does not include fused setpieces containing components which together exceed 50 mg of salute powder. Consumer fireworks are further defined as those classified by the USDOT hazard classification 1.4g. These fireworks were formerly known as "Class C Fireworks."

7. "Container" means all vessels including, but not limited to tanks, cylinders, or pressure vessels used for the storage of hydrogen.

8. "Display Fireworks" means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation. This term includes, but is not limited to, salutes containing more than two (2) grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "Consumer Fireworks." Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by the USDOT at 49 CFR 172.101. This term also includes fused setpieces containing components which together exceed fifty (50) mg of salute powder. Display fireworks are further defined as those classified by the USDOT as hazard classification 1.3g. These fireworks were formerly known as "Class B Fireworks."

9. "DOI" means the Department of Insurance.

10. "Engineered hydrogen systems" means systems or equipment that is custom designed for a particular application.

11. "Existing Building" means a building, structure, or premise for which preliminary or final drawings have been approved by the appropriate agency as provided in these regulations, in buildings where construction has begun, or those occupied on or before the date of adoption of these regulations.

12. "Fire Prevention" means any activity to prevent fire before fire occurs.

13. "Fireworks" means any composition or device designed to produce a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of "consumer fireworks" or "display fireworks" as defined by this section.

14. "Firm" means any person, partnership, corporation, association, or governmental entity.

15. "Fixed Fire Extinguishing System" means a pre-engineered fire extinguishing system.

16. "Hydrogen" is an element of the periodic table which, at room temperature and pressure, but can be compressed and/or refrigerated into a liquefied state.

17. "Hydrogen facility" is a fueling station or a fuel cell site that will store or dispense hydrogen for use as a transportation fuel, motor fuel, or in a fuel cell.

18. "Hydrogen generation system" means a packaged, factory matched, or site constructed hydrogen gas generation appliance or system such as (a) an electrolyzer that uses electrochemical reactions to electrolyze water to produce hydrogen gas; (b) a reformer that converts hydrocarbon fuel to a hydrogen-rich stream of composition and condition suitable for a type of device using the hydrogen. It does not include hydrogen generated as a byproduct of a waste treatment process.

19. ''IBC'' means the International Building Code.

20. ''ICC'' means the International Code Council.

21. ''IFC'' means the International Fire Code.

22. ''IFGC'' means the International Fuel Gas Code.

23. ''IRC'' means the International Residential Code.

24. ''LP-Gas'' means Liquefied Petroleum Gas as defined in 40–82–20.

25. ''Motion Picture'' means, for the purposes of this item, any audiovisual work with a series of related images either on film, tape, or other embodiment, where the images shown in succession impart an impression of motion together with accompanying sound, if any, which is produced, adapted, or altered for exploitation as entertainment, advertising, promotional, industrial, or educational media.

26. ''MSDS(s)'' means Material Safety Data Sheet(s).

27. ''NFPA'' means the National Fire Protection Association.

28. ''OSFM'' means the Office of State Fire Marshal, Division of Fire and Life Safety, Department of Labor, Licensing and Regulation.

29. ''Person'' means an individual, partnership, or corporation;

30. ''Portable Fire Extinguisher'' means a portable device containing extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing a fire.

31. ''Pre-engineered hydrogen system'' means a system or device that has been designed with the intention of mass production and sales to the public, which uses or produces hydrogen in its function.

32. ''Proximate Audience'' means any indoor use of pyrotechnics and the use of pyrotechnics before an audience located closer than the distances allowed by NFPA 1123.

33. ''Public Firework Display'' means a presentation of Display or Consumer Fireworks for a public gathering.

34. ''Pyrotechnics'' means any composition or device designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation.

35. ''S.C.'' means South Carolina.

36. ''Servicing'' includes maintenance, recharging, or hydrostatic testing of a Portable Fire Extinguisher or a Fixed Fire Extinguishing System.

37. ''SFM'' means the State Fire Marshal or his agent.

38. ''Theatrical Pyrotechnics'' means pyrotechnic devices for professional use in the entertainment industry similar to consumer fireworks in chemical composition and construction but not intended for consumer use.

39. ''USDOT'' means U.S. Department of Transportation.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4618, eff June 24, 2016.

71–8300.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions specified in the IFC unless otherwise stated in these regulations or adopted by state statutes.

B. The requirements of the IFC, International Fire Code, (as adopted pursuant to S.C. Code Ann. Section 6–9–5, et. seq., 1976, as amended) shall constitute the minimum standards for fire prevention and life safety protection for construction, occupancy, and use of all buildings, structures, and premises within the scope of these regulations except as modified by these regulations. In addition, to the extent to which they can be applied without conflicting with other state regulations or state statutes, the following sections of Chapter 1 of the IFC shall apply:

1. Scope and General Requirements (Section 101). "The State of South Carolina" shall be used for the Name of Jurisdiction.

2. Applicability (Section 102)

3. Liability (Section 103.4)

4. General Authority and Responsibilities (Section 104)

5. Maintenance (Section 107)

6. Unsafe Buildings (Section 110)

C. The requirements of NFPA 10, Standard for Portable Fire Extinguishers, shall be used as referenced within the adopted ICC codes for the installation, servicing, maintenance, recharging, repairing, and hydrostatic testing of all portable fire extinguishers.

D. The requirements of the following NFPA standards shall be used as referenced within the adopted ICC codes for the design, installation, testing and maintenance of fixed fire extinguishing systems in South Carolina except as modified by these regulations.

1. NFPA 11, Standard for Low-, Medium-, and High-Expansion Foam

2. NFPA 12, Standard on Carbon Dioxide Extinguishing Systems

3. NFPA 12A, Standard on Halon 1301 Fire Extinguishing Systems

4. NFPA 17, Standard for Dry Chemical Extinguishing Systems

5. NFPA 17A, Standard for Wet Chemical Extinguishing Systems

6. NFPA 750, Standard on Water Mist Fire Protection Systems

7. NFPA 2001, Standard on Clean Agent Fire Extinguishing Systems

8. NFPA 2010, Standard for Fixed Aerosol Fire Extinguishing Systems

E. The requirements of the following NFPA standards shall be used as referenced within the adopted ICC codes for the design, installation, testing, and maintenance of water-based extinguishing systems in South Carolina except as modified by these regulations.

1. NFPA 13, Standard for the Installation of Sprinkler Systems

2. NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes

3. NFPA 13R, Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies

4. NFPA 14, Standard for the Installation of Standpipe and Hose Systems

5. NFPA 15, Standard for Water Spray Fixed Systems for Fire Protection

6. NFPA 16, Standard for the Installation of Foam-Water Sprinkler and Foam-Water Spray Systems

7. NFPA 18, Standard on Wetting Agents

8. NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection

9. NFPA 22, Standard for Water Tanks for Private Fire Protection

10. NFPA 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances

11. NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems

12. NFPA 214, Standard on Water-Cooling Towers

F. The requirements of NFPA 30, Flammable and Combustible Liquids Code, shall be used as referenced within the adopted ICC codes for the storing and handling of flammable and combustible liquids in South Carolina except as modified by these regulations.

G. The requirements of NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, shall be used as referenced within the adopted ICC codes for the storing, handling, and dispensing of flammable and combustible liquids at service stations, farms, and isolated sites in South Carolina except as modified by these regulations.

H. The requirements of NFPA 52, Vehicular Gaseous Fuel Systems Code, shall be used as referenced within the adopted ICC codes for storing, handling, and dispensing vehicular alternative fuels in South Carolina except as modified by these regulations.

I. The requirements of NFPA 54, National Fuel Gas Code, shall be used as referenced within the adopted ICC codes for design, materials, components, fabrication, assembly, installation, testing, inspection, operation, and maintenance installation of fuel gas piping systems, appliances, equipment, and related accessories, installation, combustion, and ventilation air and venting in South Carolina except as modified by these regulations.

J. The requirements of NFPA 58, Liquefied Petroleum Gas Code, shall be used as referenced within the adopted ICC codes for the design, construction, location, installation and operation of equipment for storing, handling, transporting by tank truck or tank trailer, and use of LP-Gases and the odorization of such gases in South Carolina except as modified by these regulations.

K. The requirements of NFPA 59, Utility LP-Gas Plant Code, shall be used as referenced within the adopted ICC codes for the design, construction, location, installation, operation, and maintenance of refrigerated and non-refrigerated utility gas plants to the point where LP-Gas or an LP-Gas and air mixture is introduced into the utility distribution system in South Carolina except as modified by these regulations.

L. The requirements of NFPA 70, National Electrical Code, shall be used as referenced within the adopted ICC codes for fire prevention and life safety from hazards of electricity in South Carolina except as modified by these regulations.

M. The requirements of NFPA 72, National Fire Alarm and Signaling Code, shall be used as referenced within the adopted ICC codes for the design, installation, testing, and maintenance of fire alarm systems in South Carolina except as modified by these regulations.

N. The requirements of NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, shall be used as referenced within the adopted ICC codes for ventilation control and fire protection of commercial cooking operations in South Carolina except as modified by these regulations.

O. The requirements of NFPA 99, Health Care Facilities Code, shall be used as referenced within the adopted ICC codes for flammable and non-flammable medical gasses used in health care and other facilities intended for inhalation or sedation, but not limited to, analgesia systems for dentistry, podiatry, veterinary, and similar uses in South Carolina except as modified by these regulations.

P. The requirements of NFPA 101, Life Safety Code, shall be used as referenced within the adopted ICC codes for fire prevention and life safety in South Carolina when evaluating alternative methods of fire and life safety per R. 71–8300.10 except as modified by these regulations.

Q. The requirements of the NFPA 102, Standard for Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures, shall be used as referenced within the adopted ICC codes for fire prevention and life safety for all tents and membrane structures normally used in South Carolina except as modified by these regulations.

R. The requirements of NFPA 160, Standard for the Use of Flame Effects Before an Audience, including Annexes B and C, shall be used as referenced within the adopted ICC codes for all flame effects use in proximate audience pyrotechnics displays or motion picture special effects in South Carolina except as modified by these regulations.

S. The requirements of NFPA 407, Standard for Aircraft Fuel Servicing, shall be used as referenced within the adopted ICC codes for the storing, handling, and dispensing of flammable and combustible liquids at private aircraft fueling facilities in South Carolina except as modified by these regulations.

T. The requirements of NFPA 409, Standard on Aircraft Hangars, shall be used as referenced within the adopted ICC codes for the design construction, occupancy, and use of aircraft hangars in South Carolina except as modified by these regulations.

U. The requirements of NFPA 495, Explosive Materials Code, shall be used as referenced within the adopted ICC codes for the manufacture, transportation, use and storage for all explosives in South Carolina, except as modified herein.

V. The requirements of NFPA 1122, Code for Model Rocketry, shall be used as referenced within the adopted ICC codes for model rocketry associated with public firework displays or proximate

audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

W. The requirements of NFPA 1123, Code for Fireworks Display, including Annex A and E, shall be used as referenced within the adopted ICC codes for all firework displays in South Carolina except as modified by these regulations.

X. The requirements of NFPA 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, shall be used as referenced within the adopted ICC codes for transportation, storage, and use of all display fireworks and pyrotechnic articles used for proximate audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

Y. The requirements of NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, including Annexes A, B, and D, shall be used as referenced within the adopted ICC codes for all proximate audience displays in South Carolina except as modified by these regulations.

Z. The requirements of NFPA 1127, Code for High Power Rocketry, shall be used as referenced within the adopted ICC codes for all high power rockets used for proximate audience pyrotechnic displays or motion picture special effects in South Carolina except as modified by these regulations.

AA. The requirements of NFPA 1142, Standard on Water Supplies for Suburban and Rural Fire Fighting, shall be used as referenced within the adopted ICC codes for water supplies for rural fire fighting in South Carolina except as modified by these regulations.

BB. The OSFM shall post and maintain a list of the currently adopted editions of the codes and standards listed above on the OSFM website.

CC. The codes and standards listed in R.71–8300.2 that are adopted by the OSFM shall be accessible for viewing at no cost to the public through the OSFM website.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4618, eff June 24, 2016.

71–8300.3. Alternate Materials and Alternate Methods of Construction.

A. The requirements of these regulations are not intended to prevent the use of any material or method of construction not specifically prescribed by the regulations, adopted codes, or standards enforced by the OSFM. The SFM has the authority to accept alternative methods of compliance within the intent of these regulations, after finding that the materials and method of work offered is for the purpose intended, at least the equivalent of that prescribed in these regulations in quality, strength, effectiveness, fire resistance, durability, and safety. The SFM shall require submission of sufficient evidence or proof to substantiate any claim made regarding use of alternative materials and methods.

B. Compliance with applicable standards of the National Fire Protection Association, or other nationally recognized fire safety standards, may be used for consideration of alternative methods if found suitable by the SFM.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4618, eff June 24, 2016.

71–8300.4. Construction Documents and Shop Drawings.

A. Construction documents and/or shop drawings, as appropriate, must be submitted to the OSFM for the following:

1. Fire sprinkler systems per S.C. Code Ann. Section 40–10–260.
2. LP-Gas systems per R.71–8304.
3. Hydrogen facilities per S.C. Code Ann. Section 23–9–510 et seq.
4. Facilities that the OSFM is contractually obligated to review.

B. Construction documents. Construction documents and shop drawings shall be in accordance with this section.

1. Submittals. Construction documents and supporting data shall be submitted in one complete set with each application for a review and in such form and detail as required by the OSFM reviewer to be able to determine compliance.

2. The construction documents and shop drawings shall be prepared by the appropriate registered design professional(s) or other LLR licensee as required by statute or regulation.

a. Practice of architecture as defined in S.C. Code Ann. Section 40–3–20 requires a licensed architect unless exempt per S.C. Code Ann. Section 40–3–290.

b. Practice of engineering as defined in S.C. Code Ann. Section 40–22–20 requires a licensed engineer unless exempt per S.C. Code Ann. Section 40–22–280.

c. Fire sprinkler system documentation shall be prepared in accordance with the specific provisions in S.C. Code Ann. Sections 40–10–250 and 40–10–260.

3. The OSFM is authorized to not require the submission of construction documents and supporting data if:

a. they are not required to be prepared by a registered design professional, and

b. it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

4. Examination of documents. OSFM shall examine or cause to be examined the submitted construction documents and shall ascertain by such examinations whether the work indicated and described is in accordance with the applicable requirements.

5. Information on construction documents. Construction documents shall be drawn to scale upon suitable material. Electronic media documents are allowed to be submitted when approved by the OSFM. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of these regulations and other relevant laws, rules and regulations as determined by the OSFM.

a. Fire protection system shop drawings. Shop drawings for fire protection system(s) reviewed by OSFM shall be submitted to indicate compliance with these regulations and the referenced codes and standards, and shall be approved prior to the start of installation. Shop drawings shall contain all information as required by the applicable statutes, regulations, adopted codes and referenced installation standards.

b. Information on construction documents shall be specific, and the technical codes shall not be cited in whole or in part, nor shall the term "legal" or its equivalent to be used as a substitute for specific information.

c. All drawings shall bear a title block with complete, legible information indicating at a minimum where applicable: project name, project address, drawing author, drawing title, drawing number, original drawing date, all subsequent drawing revision dates, sequential drawing revision numbers, company name, and company mailing address.

6. Applicant responsibility. It shall be the responsibility of the applicant to ensure that the construction documents include all of the fire protection requirements and the shop drawings are complete and in compliance with the applicable statutes, regulations, codes and standards.

7. Approved documents. Construction documents approved by the OSFM are approved with the intent that such construction documents comply in all respects with this code. Review and approval by the OSFM shall not relieve the applicant of the responsibility of compliance with this code.

a. Phased approval. The OSFM is authorized to issue approval for the construction of part of a structure, system or operation before the construction documents for the whole structure, system or operation have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such approval for parts of a structure, system or operation shall proceed at the holder's own risk with the building operation and without assurance that approval for the entire structure, system or operation will be granted.

b. Compliance with code. The issuance or granting of approval shall not be construed to be an approval of any violation of any of the provisions of these regulations. Approvals presuming to give authority to violate or cancel the provisions of these regulations shall not be valid. The

issuance of approval based on construction documents and other data shall not prevent an AHJ from requiring the correction of errors in the construction documents and other data. Any addition to or alteration of approved construction documents shall be approved in advance by the AHJ, as evidenced by the issuance of a new or amended approval.

8. Corrected documents. Where field conditions necessitate any substantial change from the approved construction documents, the AHJ shall have the authority to require the corrected construction documents to be submitted for approval.

9. Revocation. The OSFM is authorized to revoke approval issued under the provisions of these regulations when it is found by inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or construction documents or shop drawings on which the permit or approval was based including, but not limited to, any one of the following:

a. The permit or approval is used for a location or establishment other than that for which it was issued.

b. The permit or approval is used for a condition or activity other than that listed in the permit.

c. Conditions and limitations set forth in the permit or approval have been violated.

d. There have been any false statements or misrepresentations as to the material fact in the application for permit or plans submitted or a condition of the permit.

e. The permit or approval is used by a different person or firm than the name for which it was issued.

f. Failure, refusal, or neglect to comply with orders or notices duly served in accordance with the provisions of this regulation within the time provided therein.

g. The permit or approval was issued in error or in violation of a statute, regulation, code, or standard.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4618, eff June 24, 2016.

71–8300.5. Incident Reporting.

A. Purpose. These provisions are intended to help the State and its local governmental entities to develop fire reporting and analysis capability for their own uses, to obtain data that can be used to more accurately assess and subsequently combat the fire problem at the State or local level, and to support the efforts of the National Fire Data Center in the United States Fire Administration (USFA) to gather and analyze information on the magnitude of the nation's fire problem, as well as its detailed characteristics and trends.

B. The local fire chief or his designee shall furnish to the OSFM the following information:

1. Fire fatalities from fires occurring within the fire department's jurisdiction, shall be reported directly to the OSFM immediately.

2. Firefighter line-of-duty deaths shall be reported directly to the OSFM immediately.

3. By the 15th day of each month, information concerning all incidents responded to by the fire department during the preceding month shall be reported. This information shall be reported by a method and in a format approved by the OSFM. The National Fire Incident Reporting System (NFIRS) shall serve as the minimum standard reporting method and format for these monthly reports.

C. These reports are privileged against liability unless the report is made with actual malice.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014, Amended by State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4618, eff June 24, 2016.

71–8300.6. Fire Investigations.

A. Purpose.

1. The intent of this section is to assist OSFM in improving its ability to provide fire prevention and fire education efforts and data; and, to support OSFM licensing and permitting functions.

2. It is not the intent of this section for OSFM to perform criminal investigation functions which overlap the authority and responsibility of police and other enforcement agencies.

B. The OSFM shall have the authority to investigate the cause, origin, and circumstances of any fire, explosion or other hazardous condition.

C. Information that could be related to trade secrets or processes shall not be made part of the public record, except as directed by a court of law.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014. Amended by State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4618, eff June 24, 2016.

SUBARTICLE 2
FIRE PREVENTION AND LIFE SAFETY FOR SPECIAL OCCUPANCIES

71–8301. FIRE PREVENTION AND LIFE SAFETY FOR SPECIAL OCCUPANCIES.

(Statutory Authority: 1976 Code Section 23–9–60.)

71–8301.1. General.

A. The purpose of this Subarticle is to provide specific requirements for certain occupancies.

B. This regulation shall apply to:

1. New and existing foster homes.

2. New and existing schools inspected by the OSFM.

C. The Department of Social Services shall provide a list of registered in-home childcare facilities to the OSFM annually.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff. June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4619, eff June 24, 2016.

71–8301.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71–8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff. June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4619, eff June 24, 2016.

71–8301.3. Requirements for Special Occupancies.

A. All Foster Home Facilities

1. Foster homes providing care, maintenance, and supervision for no more than six (6) children, including the natural or adopted children of the foster parent; shall comply with the following:

a. Must be a facility designed and constructed with the intent to be used as a dwelling per applicable statutes and regulations.

b. At least one (1) portable fire extinguisher with a minimum classification of 2A:10BC shall be installed near cooking areas. The fire extinguishers shall be installed and maintained in accordance with the manufacturer's instructions.

c. Each facility housing foster children shall maintain means of egress as required by original construction.

d. All heating devices must be selected, used, and installed per the manufacturer's recommendations and the listing conditions set by an approved testing laboratory.

e. Unvented gas heaters shall have an operating oxygen depletion device, an operating safety shutoff device, and shall be located or guarded to prevent burn injuries.

f. Fireplaces shall be equipped with fire screens, partitions, or other means to protect clients from burns.

g. A fire escape plan describing what actions are to be taken by the family in the event of a fire must be developed and posted.

h. A fire escape drill shall be conducted every three (3) months.

i. Records of the drills shall be maintained on the premises for three (3) years. The records shall give the date, time, and weather conditions during the drill, number evacuated, description, and evaluation of the fire drill. Fire drills shall include complete evacuation of all persons from the building.

j. A fire escape drill shall be conducted within twenty-four (24) hours of the arrival of each new foster child.

k. Portable unvented fuel-fired heating equipment shall be prohibited in all foster homes.

l. An approved carbon monoxide alarm shall be installed and maintained outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units within which fuel fired appliances are installed and in dwelling units that have attached garages.

m. Each sleeping room must have an operable door that closes and latches to provide compartmentation that protects occupants in case of a fire event.

n. The dwelling shall be free of dangers that constitute an obvious fire hazard, such as faulty electrical cords, overloaded electrical sockets, or an accumulation of papers, paint, or other flammable material stored in the dwelling.

o. Facilities serving as a foster home shall have approved address numbers placed in a position that is plainly legible and visible from the street. Address number shall be a minimum of 4 inches high with a minimum stroke width of 0.5 inch and shall contrast with their background.

p. Listed smoke alarms shall be installed in accordance with the manufacturer's installation instructions and in the following locations:

(i) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms; and

(ii) In each room used for sleeping purposes; and

(iii) In each habitable story within a dwelling.

q. Listed smoke alarms shall be powered from:

(i) the electrical system of the dwelling as the primary power source and a battery as a secondary power source;

(ii) a battery rated for a 10-year life, provided the smoke alarm is listed for use with a 10-year battery; or

(iii) battery power that is part of a listed wireless interconnected smoke alarm unit.

r. All sleeping rooms below the fourth story shall have emergency escape and rescue openings that open from the inside.

s. Such emergency escape and rescue openings shall be sized and configured in accordance with the applicable code requirements.

2. Foster homes that do not comply with Section A.1.s. above, shall have one of the following:

a. Listed smoke alarms required to be installed by Section A.1.p. above shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the dwelling unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm; or

b. A residential fire sprinkler system in accordance with the applicable statutes, regulations, and adopted codes.

B. Inspection of School Facilities

1. The OSFM shall work in conjunction with local resident fire marshals to ensure regular fire and life safety inspections are conducted of all public schools that are subject to these regulations. The OSFM shall work in conjunction with the Department of Education's Office of School Facilities to ensure a fire and life safety inspection of each new school is conducted prior to occupancy and to ensure that additions to schools and school alterations are also inspected.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff. June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4619, eff June 24, 2016.

SUBARTICLE 3
EXPLOSIVES

71–8302. EXPLOSIVES.

(Statutory Authority: 1976 Code Sections 23–9–40(b), 23–9–60, 23–36–10 et seq.)

71–8302.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, and operators from the manufacture, transportation, handling, use, and storage of explosives in South Carolina.

B. This regulation shall apply to the manufacture, transportation, handling, use, and storage of explosives in South Carolina.

C. This regulation does not apply to the sale or storage of fireworks as regulated by the Board of Pyrotechnic Safety.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4617, eff June 24, 2016.

71–8302.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71–8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4617, eff June 24, 2016.

71–8302.3. Licensing and Permitting Fees.

A. All applications for licenses, tests, or permits must be accompanied by the appropriate fees.

B. The OSFM is responsible for all administrative activities of the licensing program. The SFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in S.C. Code Ann. Section 40–1–50(D), 1976, as amended.

C. Fees shall be established for the following:

1. Application
2. Background Check
3. Testing
4. Licensing
5. Permitting
6. Inspection
7. Renewal

D. All fees are due at time of application.

E. Submission requirements for Blasting Permit application

1. Applications for Blasting Permits shall be submitted to the OSFM for approval at least 48 hours before the start of blasting operations.

2. Applications submitted less than 48 hours before the start of blasting operations maybe subject to a $200.00 special processing fee.

3. Blasting Permit applications shall include the properly completed form and shall be accompanied by all information listed on the Blasting Permit application form when applying to the OSFM for a Blasting Permit.

F. All fees paid to the OSFM are nonrefundable.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4617, eff June 24, 2016.

71–8302.4. Licenses and Permits.

A. Classification of Licenses and Permits

	Class	Category	Blasting Permitted
1.	A	Unlimited	All types of blasting
2.	B	General	All phases of blasting operations in quarries, aboveground open pit mines, and aboveground construction
3.	C	General	All phases of blasting operations in underground mines, shafts, tunnels, and drifts
4.	D	Demolition	All phases of blasting in demolition projects
5.	E	Seismic	All phases of blasting in seismic prospecting
6.	G	Special	Special blasting as described on the permit

B. Licenses

1. No person shall be granted a license who has not successfully completed a written examination administered by the OSFM covering the applicable codes, state laws and regulations for the license classification for which they are applying.

2. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven (7) day waiting period. Any applicant who fails the re-test shall wait at least six (6) months before reapplying.

3. Licenses are not transferable.

4. The OSFM may accept determination of relief from disability incurred by reason of a criminal conviction that has been granted by the Director of the Bureau of Alcohol, Tobacco, Firearm and Explosives, U. S. Department of Justice, Washington, D.C., pursuant to Section 555.142, Subpart H, Title 27, Code of Federal Regulations and Title 18 United States Code, Chapter 40, Section 845(b).

5. New applicants for licensing shall:

a. Submit an application for a new license.

b. Submit a completed fingerprint card with his or her application. The OSFM will conduct a criminal background check as part of the licensing application process.

c. Provide the appropriate Federal licenses to handle and use explosives or explosive materials. Applicants must provide a copy of applicable Federal licenses with their application.

d. Provide proof of public liability insurance for an amount not less than one million dollars ($1,000,000). The coverage company must be an insurer which is either licensed by the DOI in this State or approved by the DOI as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the OSFM.

6. Each applicant for renewal shall each year:

a. Submit an application for renewal.

b. Submit a completed fingerprint card with his or her application. The OSFM will conduct a criminal background check as part of the licensing application process.

c. Provide a copy of their current Federal licenses for handling and using explosives or explosive material with their renewal application.

d. Attend at least four (4) hours of continuing education acceptable to the OSFM. Certificates of training or other proof of training attendance must be provided when requested by the OSFM.

e. Provide proof of insurance. The coverage company must be an insurer which is either licensed by the DOI in this State or approved by the DOI as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the OSFM.

f. An expired license shall not be renewed. A new license shall be obtained by complying with all requirements and procedures for an original license.

C. Blasting Permits

1. Blasting Permit application forms shall be available on the OSFM website and shall contain the information deemed appropriate by the OSFM. At a minimum, the application form shall include:

a. Applicant name and contact information;

b. Blaster name, license, and contact information;

c. Blast site information including location, purpose of blasting, and fire department responsible for responding to the site;

d. Anticipated date and time range of blasting operations;

e. Information on separation distances detailing the actual distances to the nearest gas lines, power transmission lines, public roads, and structures;

f. The type(s) of explosive used;

g. Information on quantities of explosive used including the estimated amount of explosives for the duration of the permit, amount per shot, and amount per charge; and,

h. Information regarding whether a seismograph will be used.

2. Blasting Permit application forms shall list all information required to be submitted with the form per R.71–8302.3.E. This list shall include at least the following:

a. Current certificate of insurance;

b. Directions to the blast site;

c. Site plan of the blast site showing measured distances to adjacent buildings, streets, utilities, wells, and other facilities that have been superimposed on officially published maps, electronic satellite imagery, or another means of showing the site area and its vicinity that OSFM determines to be acceptable;

d. Blasting plan that addresses proposed blasting procedures, quantity of material to be removed by blasting, number of blasts to be detonated, quantity and type of explosives to be used,

maximum amount of explosives per delay, the maximum number of holes per delay, and the proposed placement of seismographs; and

e. Safety plan that addresses on-site storage, traffic control, barricading, signage plan, and adverse weather operation plan.

3. No permit will be granted without submission of a complete Blasting Permit application form and payment of application fee.

4. No variations from the terms of the blasting permit are allowed without authorization from the OSFM.

D. Magazine Permits

1. Magazine Permit Application Forms shall contain the information deemed appropriate by the OSFM.

2. Magazine Permit Application Forms shall be available on the OSFM website.

3. Magazine permits expire at 12:01 AM on January 1 of each licensing cycle. Any magazine permit not renewed by December 31 may incur a late fee of $100.00 (each).

4. Magazine permits shall be visible on the exterior of all magazines. Defaced or destroyed permits will be reported to the OSFM when discovered. The OSFM may, at their discretion, charge the administrative costs of replacing the magazine permit.

5. Each magazine shall be inspected and approved by the OSFM before use.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4617, eff June 24, 2016.

71–8302.5. Records.

A. Licensed blasters shall keep records of each blast. The Blaster's Log shall contain the following minimum data:

1. Name of company or contractor;

2. Location, date, and time of blast;

3. Name, signature, and license number of blaster in charge of blast;

4. Type of material blasted;

5. Number of holes, burden and spacing;

6. Diameter and depth of holes;

7. Types of explosives used;

8. Total amount of explosives used;

9. Maximum amount of explosives per delay period of 8 milliseconds or greater;

10. Method of firing and type of circuit;

11. Direction and distance in feet to nearest dwelling house, public building, school, church, commercial or institutional building neither owned nor leased by the person conducting the blasting;

12. Weather conditions;

13. Type and height or length of stemming;

14. Whether mats or other protections were used;

15. Type of delay electric blasting caps used and delay periods used;

16. Exact location of seismograph, if used, and the distance of seismograph from blast as indicated accurately by the person taking the seismograph reading;

17. Seismograph records, where required including:

a. Name of person and firm analyzing the seismograph record; and

b. Seismograph reading;

18. Maximum number of holes per delay period of eight milliseconds or greater.

B. Blasters will provide a blast report on forms approved by the OSFM and submit these forms within three working days of the blast when deemed necessary by the OSFM.

C. Blasting records shall be retained by the licensed blaster and available for inspection by SFM during normal work hours at their place of business. These blast records shall include as a minimum for each blast:

1. Blasting Permit;
2. Seismograph reports when used;
3. Blaster's Record/log;
4. Pre-Blast Survey (if applicable).

D. Magazine log shall be available for inspection by OSFM upon request during normal work hours or hours of operation of the magazine.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4617, eff June 24, 2016.

71–8302.6. Blasting Safety and Operations.

A. The contractor, operator, and the blaster are responsible for the conduct of blasting operations on any site.

B. These regulations do not relieve the contractor, operator, blaster or other persons of their responsibility and liability under any other laws.

C. The OSFM may require the use of a seismograph on any blasting operation where damage to personal property has or may occur.

D. A Seismograph shall be used on all blasting operations: (1) within 1500 feet of a building, (2) where the scaled distances shown in NFPA 495 are not followed, or (3) when directed by the OSFM.

E. Operators must notify the OSFM within 24 hours of any fires or thefts involving explosives. The operators shall provide the OSFM with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the OSFM Office with a copy of ATF Form 5400.5.

F. The operator shall have their license in their possession when handling, possessing or using explosive materials and shall show their license when asked by any AHJ.

G. A copy of the blasting permit shall be kept at the firing station.

H. This section shall be followed for firing the blast:

1. A warning signal shall be given before every blast. Warning signals shall comply with the following:

a. Warning signal is a one (1) minute series of long horn or siren blasts five (5) minutes before the blast signal.

b. Blast signal is a series of short horn or siren blasts one (1) minute before the shot.

c. All clear signal is a prolonged horn or siren blast following the inspection of the blast area.

2. The signal shall be made from an air horn, siren or other device, and must be loud enough to be clearly heard in all areas that could be affected by the blast or flyrock from the blast. The signal must be distinctive and unique so that it cannot be confused with any other signaling system that might occur on the site. A vehicle horn shall not be used as a signaling system.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4617, eff June 24, 2016.

71–8302.7. Explosives and Investigations.

All costs incurred by the OSFM for investigations involving explosives or blasting operations shall be reimbursed to the State by the individual or company involved in the investigation. Such reimbursements will only apply when the individual or company has been found in violation of the South Carolina Explosives Control Act (S.C. Code Ann. 23–36–10, et seq., 1976, as amended) or these Regulations.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4617, eff June 24, 2016.

71–8302.8. Variances.

A. This section provides licensees the opportunity to request variances of the regulations under specific conditions.

1. The OSFM may grant variances when it can be demonstrated the variance improves safety or provides an equivalent level of safety as provided in the regulations and adopted codes.

2. Such a variance may be modified or revoked by the OSFM.

3. When applicable, these variances must also be approved by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 29, Issue No. 4, eff April 22, 2005; State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4617, eff June 24, 2016.

SUBARTICLE 4
PORTABLE FIRE EXTINGUISHERS AND FIXED FIRE EXTINGUISHING SYSTEMS

71–8303. PORTABLE FIRE EXTINGUISHERS AND FIXED FIRE EXTINGUISHING SYSTEMS.

(Statutory Authority: 1976 Code Sections 23–9–40, 23–9–45.)

71–8303.1. General.

A. The purpose of this subarticle is to regulate the leasing, renting, reselling, servicing and testing of portable fire extinguishers and the installation, testing, and servicing of fixed fire extinguishing systems in the interest of protecting lives and property.

B. This regulation shall apply to:

1. The filling, charging, and recharging of all portable fire extinguishers other than the initial filling by the manufacturer.

2. The testing and servicing of all types of portable fire extinguishers.

3. The installation, testing, and servicing of all types of fixed fire extinguishing systems.

C. This regulation shall not apply to the following:

1. The filling or charging of a portable fire extinguisher by the manufacturer before the initial sale;

2. The installation or servicing of water-based extinguishing systems addressed by S.C. Code Ann. Section 40–10–240 et seq; and

3. Firms engaged in the retailing or wholesaling of new portable fire extinguishers.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State

Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R. 71–8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.3. Fees for Licensing, Testing, and Inspections.

A. The OSFM is responsible for all administrative activities of the licensing program. The OSFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in S.C. Code Ann. Section 40–1–50(D), 1976, as amended.

B. Fees shall be established for the following:

1. Application
2. Testing
3. Permitting
4. Licensing
5. Inspection
6. Renewal

C. All fees are due at time of application for licenses, testing, permits, inspection or renewal.

D. All fees paid to the OSFM are nonrefundable.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.4. Licensing and Permitting Requirements.

A. General Licensing Requirements.

1. Each firm testing and servicing portable fire extinguishers; installing, testing, and servicing fixed fire extinguishing systems; or hydrostatic testing portable fire extinguishers or portions of fixed fire extinguishing systems must have a license issued by the OSFM.

2. Each firm's license shall be displayed in a conspicuous location at their place of business.

3. Each firm shall apply in writing on a form available from the OSFM, for the license classification the firm is seeking.

4. Each firm shall furnish a certificate of insurance with their application in the amount required for their license classification. The firm shall list the State of South Carolina and its agents as a certificate holder. The coverage company must be an insurer which is either licensed by the DOI in this State or approved by the DOI as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or not renewed, the insurer shall give immediate notice to the OSFM.

5. Each firm shall possess or have access to the equipment necessary for the class of license sought. The OSFM shall inspect the firm's facilities, fixed or mobile, to verify the firm has the necessary required equipment. The OSFM shall not license a firm until deficiencies discovered by inspection are corrected.

6. Licenses issued under this subarticle are not transferable.

7. All licenses expire when insurance coverage lapses or is cancelled and on the day of expiration shown on the license and shall be renewed biennially.

8. Expired licenses shall not be renewed. A new license shall be obtained by complying with all requirements and procedures for an original license.

B. General Permitting Requirements.

1. Each individual servicing, recharging, repairing, installing, or testing portable fire extinguishers or fixed fire extinguishing systems shall possess a valid permit issued by the OSFM.

2. Each individual shall apply in writing on a form available from the OSFM, for the permit classification they are seeking.

3. Applicants must provide a current color photograph in an approved electronic format as specified by OSFM on the application form.

4. Applicants must be at least eighteen (18) years old.

5. Applicants shall pass a written examination administered by the OSFM before a permit is issued. The exam will cover the applicable codes, state laws, and regulations and the additional requirements for the specific class of permit for which they are applying. Completed applications must be received by OSFM prior to scheduling an examination.

6. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven-day waiting period. Any applicant who fails the re-test shall wait at least six (6) months before reapplying.

7. Permit holders shall have their permits in their possession while working on equipment or systems covered by their permit.

8. Permit holders shall show their permits on the request of any AHJ.

9. Permit holders shall be limited to specific type of work allowed by the class of permit they hold and the specific systems covered by their permit.

10. Permits issued under this subarticle are not transferable and specifically identify the affiliated company. Upon leaving the employ of the specifically identified company, the permit immediately becomes invalid and must be surrendered to the OSFM within 15 business days.

11. Permits shall expire on the day of expiration shown on the permit and shall be renewed biennially.

12. Expired permits shall not be renewed. A new permit shall be obtained by complying with all requirements and procedures for an original permit.

C. License and Permit Classifications.

1. Class "A" - may service, recharge, or repair, all types of portable fire extinguishers, including recharging carbon dioxide units; and to conduct hydrostatic tests on all types of fire extinguishers.

2. Class "B" - may service, recharge, or repair all types of portable fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on water, water chemical, and dry chemical types of extinguishers only.

3. Class "C" - may service, recharge, or repair all types of portable fire extinguishers, except recharging carbon dioxide units; and to conduct hydrostatic tests of water, water chemical, and dry chemical types of fire extinguishers only.

4. Class "D" - may service, recharge, repair, or install all types of fixed fire extinguishing systems.

5. Class "E" is an apprentice permit classification only. Permits in this classification may perform the services only under direct supervision of a person holding a valid permit and who works for the same firm as the apprentice. An apprentice permit is valid for one (1) year from the day of issuance and may not be renewed.

D. Firms applying for a Class "A", "B", or "C" License must meet all of the general requirements for licensing and provide proof of public liability insurance for an amount not less than one million ($1,000,000) dollars.

E. Firms applying for a Class "D" License must:

1. Designate on their application for licensing each type of fixed fire extinguishing system for which they want to be licensed;

2. Provide proof of public liability insurance for an amount not less than one million ($1,000,000) dollars; and

3. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system.

4. For each additional type of fixed fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

F. Individuals applying for a Class "A", "B", or "C" Permit must meet all of the general requirements.

G. Individuals applying for a Class "D" Permit must:

1. Designate on their application for licensing each type of fixed fire extinguishing system for which they want to be permitted.

2. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system.

3. For each additional type of fixed fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

H. Employees applying for a Class "E" Permit must file an application for a Class "E" Permit and provide a current photograph.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.5. Renewal of Licenses and Permits.

A. To qualify for biennial renewal of a Class "A", "B" or "C" license, a firm must:

1. Apply in writing on a form available from the OSFM designating the Class of license sought;

2. Provide proof of public liability insurance.

B. To qualify for biennial renewal of a Class "A", "B" or "C" permit, an individual must:

1. Apply in writing on a form available from the OSFM, designating the permit classification they are seeking.

C. To qualify for biennial renewal of a Class D license, a firm must:

1. Apply in writing on a form available from the OSFM, designating each type of fixed fire extinguishing system for which they wish to be licensed to install, test, or service;

2. Provide proof of public liability insurance;

3. Provide proof of manufacturer's certification for at least one type of fixed fire extinguishing system;

4. For each additional type of fixed fire extinguishing system, the applicant may submit proof of a manufacturer's certification or an affidavit which shall attest to the ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals and NFPA standards.

D. To qualify for biennial renewal of a Class D permit, an individual must:

1. Apply in writing on a form available from the OSFM, designating each type of fixed fire extinguishing system for which they wish to be permitted to install, test, or service;

2. Provide an up to date manufacturers training certificate for each type of fixed fire extinguishing system, that renewal is sought;

3. Provide an affidavit to attest to the applicant's ability to obtain the proper manufacturer's installation, maintenance and service manuals and manufacturer's parts or alternative components that are listed for use with the specific extinguishing system and provide testament that all installations and maintenance shall be performed in complete compliance with the manufacturer's installation, maintenance and service manuals.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.6. Restrictions for Class D Fire Equipment Licenses and Permits.

A. A firm or person shall not willfully engage in the business of installing, testing or servicing Class D fire equipment or use in any advertisement or on a business card or letterhead, or make any other verbal or written communication that the person is a Class D Fire Equipment Dealer or acquiesce in such a representation, unless that person is licensed as a Class D Fire Equipment Dealer by the OSFM.

B. No person shall install or service any type of Class D fire equipment not covered on their permit.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.7. Licensing Requirements: For Firms Performing Hydrostatic Testing.

A. Each firm performing hydrostatic testing of fire extinguishers manufactured according to the specifications of the USDOT shall be required to possess a valid license issued by the USDOT. All hydrostatic testing of fire extinguishers shall be performed per the appropriate USDOT standards and NFPA standards.

B. Each employee certified to conduct hydrostatic testing shall attend a USDOT certification refresher course every three years and provide a copy of the current certification to the OSFM upon completion.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.8. Installation and Maintenance Procedures.

A. All Portable Fire Extinguishers and Fixed Fire Extinguishing Systems covered by these regulations shall be installed, inspected, tested and serviced per the applicable NFPA standards and the manufacturer's installation, service and maintenance manuals.

B. Any portable fire extinguisher or fixed fire extinguishing system that cannot be maintained per the manufacturer's installation, service, and maintenance manuals or the applicable NFPA standards shall be removed from service and replaced.

C. Tamper seals on all portable fire extinguishers and fixed fire extinguishing systems shall be imprinted with the year. Handwritten dates are not acceptable. The year imprinted on the tamper seal

shall match the date on the maintenance tag affixed to the portable fire extinguisher or fixed fire extinguishing system.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.9. Recommended Equipment and Facilities for Fire Equipment Dealer License.

						YES	NO	N/A
1	A			D	Hydrostatic test equipment for high pressure testing and calibrated cylinder. (0–11,000 psi)			
2	A			D	Equipment for test dating high-pressure cylinders (over 900 psi). Die stamps must be a minimum of one-quarter inches.			
3	A			D	Clock with sweep secondhand on or close to hydrostatic test apparatus.			
4	A	B		D	Carbon dioxide receiver--cascade system for proper filling of Carbon dioxide extinguishers.			
5	A	B		D	Supply of metallic labels Carbon dioxide hose conductivity test. Labels attached to the hose must include month and year of testing, name or initials of person performing test, and name of agency performing test.			
6	A	B	C	D	Scales graduated in one-eighth ounce or 1 gram weight if refilling Carbon dioxide cartridges. Minimum of 20 lbs.			
7	A	B	C	D	All scales calibrated within the last 12 months. Certification date(s) _____ Certified by _____			
8	A	B	C	D	Approved drying method for high and low pressure cylinders. Listed for its use.			
9	A	B	C	D	Proper wrenches with non-serrated jaws or valve puller (hydraulic or electric).			
10	A	B	C	D	Inspection light.			
11	A	B	C	D	Low-pressure test apparatus.			
12	A	B	C	D	Low-pressure hydrostatic test labels per NFPA 10.			
13	A	B	C	D	Scales for weighing extinguisher/system agent bottles during inspection and filling, minimum of 500 lbs. Calibrated and certified annually.			
14	A	B	C	D	Closed recovery system(s) and storage to remove and store chemicals from fire extinguishers or system cylinders during servicing.			
15	A	B	C	D	Closed recovery system(s) and storage to remove and store chemicals from halon type fire extinguishers or system cylinders during servicing.			
16	A	B	C		Current installation, maintenance and service manuals from the manufacturer of each make or brand of fire extinguisher or			

					system the company installs, services, recharges, repairs, or maintains.
17	A	B	C		Supply of extinguisher recharge agents for the type/brands of fire extinguishers the company requests to recharge or service.
18	A	B	C	D	Vise 6-inch minimum (chain or bench).
19	A	B	C	D	Facilities for proper storage of extinguishing agents.
20	A	B	C	D	Facilities for leak testing of pressurized extinguishers.
21	A	B	C	D	Nitrogen with regulator and indicator. Regulator not to exceed 1500 psi--minimum 500 psi.
22	A	B	C	D	Supply of "Verification of Service" collars containing month and year the service was performed.
23	A	B	C		Adapters, fittings, and tools and equipment for properly servicing and/or recharging all extinguishers being serviced and recharged.
24	A	B	C	D	Safety cage (in shop) for hydrostatic testing of low-pressure cylinders.
25	A	B	C	D	One-quarter pound graduated scales minimum 150 pounds for weighing chemical recharging.
26				D	Cable crimping tool (where required).
27				D	Cocking lever (where required).
28				D	Pipe vise, dies, reamer, etc.
29				D	Stock and supply of fuse links, proper elbows, and nozzles for system which is being installed.
30				D	Parts from each manufacturer's system that the permittee is permitted to work on or service, including original service manuals and all up to-date technical bulletins.
31				D	Listed links from each manufacturer that the permittee is permitted to service or work on.
32				D	Current service manuals from the manufacturer for each model of fixed fire extinguishing system being installed, tested, or serviced by the fire equipment license holder.
33				D	System reports - custom or generic.
34				D	Non-compliance tags for non compliant systems.
35	A	B	C	D	Supply of tags with the appropriate company and other related information on them.
36				D	Thermometer with a minimum of 2 degrees Fahrenheit or 1 degree Celsius increments.
37				D	Agent transfer pump (for halon or clean agents).
38				D	Torque wrench.
39				D	Leak test device (for halon or clean agents).

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.10. Powers and Duties of the Office of State Fire Marshal.

A. Powers and duties of the OSFM are:

1. To evaluate the applications of firms or individuals for a license and permits to engage in the business of servicing portable fire extinguishers or installing, testing and servicing fixed fire extinguishing systems;

2. To administer written examinations to ascertain the competency of applicants for a license to service portable fire extinguishers or install fixed fire extinguishing systems;

3. To issue licenses, permits, and apprentice permits required by this subarticle;

4. To suspend or revoke licenses and permits for cause; and

5. To administer these regulations and supervise personnel in carrying out the requirements of this regulation.

B. The OSFM may conduct hearings or proceedings concerning the suspension, revocation, or refusal to issue or renew licenses or permits issued under this subarticle or the application to suspend, revoke, refuse to renew, or refuse to issue the same.

C. An applicant, licensee, or permit holder whose license or permit has been refused or revoked under this subarticle, except for failure to pass a required written examination, shall not file another application for a license or permit within one year from the effective date of the refusal or revocation. After one year from that date, the applicant may re-apply, and in a public hearing, show good cause why the issuance of a license or permit does not hinder public safety and health.

D. The OSFM shall maintain a registry of all applications for licenses or permits and of all firms or persons holding licenses or permits. The OSFM shall make the roster of Fire Equipment Dealers Licenses or Fire Equipment Permits, available on the OSFM website.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.11. Fitness to Practice; Investigation of Complaints.

If the OSFM has reason to believe that a person licensed under this chapter has become unfit to practice as a Fire Equipment Dealer or if a complaint is filed with the OSFM alleging a violation of a provision of this chapter by a license or permit holder or if a complaint is filed with the OSFM alleging that an licensed person is fraudulently holding him or herself out as qualified to engage in business as a Fire Equipment Dealer, the OSFM may initiate an investigation per the procedures of Title 40, Chapter 1.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.12. Administrative Sanctions.

A. If after an investigation it appears that the license or permit holder under this regulation has become unfit to practice or has violated these regulations, the OSFM may file a Petition with the Administrative Law Court stating the facts and the particular statutes and regulations at issue.

B. The Administrative Law Court may, after opportunity for hearing, order that the license or permit be revoked, suspended, or otherwise disciplined on the grounds that the license or permit holder:

1. Used a false, fraudulent, or forged statement or document in obtaining a license or permit under this chapter; or

2. Committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining a license or permit under this chapter; or

3. Has had an authorization to practice a regulated profession or occupation in another state or jurisdiction canceled, revoked or suspended, or has otherwise been disciplined by another jurisdiction; or

4. Has intentionally used a fraudulent statement in a document connected with the license or permit; or

5. Obtained fees or assisted in obtaining fees under fraudulent circumstances; or

6. Sustained a physical or mental disability or uses alcohol or drugs to such a degree as to render further practice as a Fire Equipment Dealer dangerous to the public; or

7. Failed to perform all installation, service, and testing in complete compliance with the manufacturer's manuals.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010.; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.13. Sanctions for Unlawful Practice.

A. The Administrative Law Court may, after opportunity for hearing, order injunctive relief against a person who, without possessing a valid license or permit under this chapter, practices or offers to practice or uses the title or term Fire Equipment Dealer. For each violation, the administrative law judge may impose a fine of no more than ten thousand ($10,000) dollars.

B. A person who does not hold a license or permit as required by this Chapter, may not bring any action either at law or in equity to enforce the provisions of any contract for providing services as a Fire Equipment Dealer.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.14. Certain Acts Prohibited.

A. No person or firm shall:

1. Engage in the business of installing or servicing portable fire extinguishers without a valid and current license;

2. Engage in the business of installing or servicing fixed fire extinguishing systems without a valid and current license;

3. Service, test, or install fixed fire extinguishing systems without a valid and current license;

4. Perform hydrostatic testing of USDOT cylinders for portable fire extinguishers or parts of a fixed fire extinguishing systems without a valid and current hydrostatic license;

5. Obtain or attempt to obtain a license or permit by fraudulent representation;

6. Service portable fire extinguishers or test, service, or install fixed fire extinguishing systems contrary to the provisions of these regulations;

7. Service or hydrostatic test a fire extinguisher that does not have the proper identifying labels;

8. Sell, offer for sale, or give any make, type, or model of new or used fire extinguisher, unless extinguisher has first been tested and is currently approved or listed by Underwriters' Laboratories,

LLC., FM Approvals, or other nationally recognized testing laboratory whose testing procedures used for approval in the listing of portable fire extinguishers are acceptable to the OSFM, and unless such extinguisher carries an Underwriters' Laboratories, Inc., or manufacturer's serial number. The serial number shall be permanently stamped on the manufacturer's identification and instruction plate;

9. Permit an individual who works for the firm to engage in installation, repair, recharge, maintenance or servicing fire extinguishers or fixed fire extinguishing systems without a valid permit or license.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.15. Cease and Desist Orders; Notice to Correct Hazardous Conditions.

When the OSFM shall have reason to believe that any person is or has been violating any provisions of this regulation or any rules or regulations adopted and promulgated pursuant thereto, the OSFM may issue and deliver to such person an order to cease and desist such violation or to correct such hazardous condition.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.16. Suspensions or Revocation of License or Permit.

A. The license of any company or individual may be suspended or revoked because of failure to comply with the terms of any order to correct violations within the specified abatement period or for failure to comply with any cease and desist orders. A license may be suspended for a period not to exceed one year from the date of license suspension. A license may be revoked for a period not to exceed two years from the date of license revocation.

B. In addition, a license may be suspended or revoked where the license or permit holder is found to have:

1. Rendered inoperative a fire extinguisher or fixed fire extinguishing system, which is required by any rule of the OSFM, except during such time as the extinguisher, or fixed fire extinguishing system is being inspected, serviced, or tested;

2. Falsified any records required to be maintained by this chapter or rules adopted thereto;

3. Improperly serviced, tested, or inspected a fire extinguisher or fixed fire extinguishing system;

4. Allowed another person to use his permit or license number or use a license or permit number other than the license or permit holder's valid license or permit number; or

5. Obliterated the serial number on a fire extinguisher for purposes of falsifying service records.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.17. Responsibility of Equipment Manufacturer.

All manufacturers of portable fire extinguishers and fixed fire extinguishing systems doing business in South Carolina shall provide the OSFM with all technical information as well as installation instructions that apply to their systems and equipment sold, installed, serviced or tested in South Carolina. This technical information shall include design revisions and updating information on systems sold in South Carolina.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State

Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

71–8303.18. Penalties.

The OSFM may issue a citation for each offense to any person, firm, or corporation licensed under these regulations who has violated any provision of this subarticle. The OSFM may assess fines for each charge to both the fire equipment company and the permit holder. Citations may be assessed by the OSFM at not more than two thousand ($2000.00) per violation.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 34, Issue No. 6, eff June 25, 2010; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4623, eff June 24, 2016.

SUBARTICLE 5
LIQUEFIED PETROLEUM GAS

71–8304. LIQUEFIED PETROLEUM (LP) GAS.

(Statutory Authority: 1976 Code Section 23–9–20, 23–9–40, 23–9–60, 40–82–70.)

71–8304.1. General.

A. The purpose of this regulation is to provide reasonable protection of the health, welfare, and safety of the public and LP-Gas operators from the hazards associated with the handling, use, transportation, and storage of LP-Gas.

B. These regulations apply to:

1. LP-Gas Dealers, Installers, Gas Plants, Wholesalers, Resellers, or Cylinder Exchange operators and;

2. Any person handling, dispensing, transporting, or storing LP-Gas.

C. These regulations shall not apply to:

1. LP-Gas pipeline transmission.

2. Gas plants after the point where LP-Gas or LP-Gas and air mixture enters a utility distribution system.

3. Natural gas systems covered by the IFGC.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4622, eff June 24, 2016.

71–8304.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71–8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4622, eff June 24, 2016.

71–8304.3. Licensing and Permitting Fees.

A. The OSFM is responsible for all administrative activities of the licensing program. The SFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish

fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program. Fees may be adjusted not more than once each two years, using the method set out in S.C. Code Ann. Section 40–1–50(D), 1976, as amended.

B. Fees shall be established for the following:

1. Application
2. Testing
3. Permitting
4. Licensing
5. Inspection
6. Renewal

C. All fees are due at time of application for licenses, testing, permits, inspection, or renewal.

D. All fees paid to the OSFM are nonrefundable.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4622, eff June 24, 2016.

71–8304.4. Licensing Requirements.

A. Licenses

1. Each company shall possess a license issued by the OSFM.

2. Licenses shall be displayed in a conspicuous location at the place of business for the LP-Gas Dealer, Installer, Gas Plant, Wholesaler, Reseller, or Cylinder Exchange operator.

B. Permits

1. Each site shall have a designated person that has a permit issued by the OSFM to supervise people handling, dispensing, installing, transporting, repairing, or exchanging LP-Gas.

2. Any applicant who fails the written examination is allowed one (1) re-test after a minimum seven (7) day waiting period. Any applicant who fails the re-test shall wait at least thirty (30) days before reapplying.

3. Permits shall bear the name, photograph, and any other identifying information deemed necessary by the OSFM.

4. Permit holders shall have their permit in their possession when supervising the handling, dispensing, installing, manufacturing, transporting, repairing, or exchanging LP-Gas.

5. Permit holders shall exhibit their permits on request of any AHJ.

6. Permits shall expire on the day of expiration shown on the permit and shall be renewed biennially.

7. Permits issued under this subarticle are not transferable.

8. Expired permits shall not be renewed. A new permit shall be obtained by complying with all requirements and procedures for an original permit.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4622, eff June 24, 2016.

71–8304.5. Plan Submittal Requirements.

Licensees that are required to obtain a site approval per S.C. Code Ann. Section 40–82–220, 1976, as amended, shall comply with the plan submittal requirements of the applicable codes and standards referenced in R.71–8304.2.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015. Amended by State Register Volume 40, Issue No. 6, Doc. No. 4622, eff June 24, 2016.

SUBARTICLE 6
FIREWORKS AND PYROTECHNICS

71–8305. FIREWORKS AND PYROTECHNICS.

(Statutory Authority: 1976 Code Sections 23–9–10 et seq. and 23–35–45 et seq.)

71–8305.1. General.

A. The purpose of this regulation is to provide reasonable safety and protection to the public, public property, private property, performers, display operators, and emergency responders from the hazards associated with the handling, use, transportation, and storage of pyrotechnics and fireworks.

B. This regulation shall apply to:

1. The handling and use of fireworks intended for public fireworks display;

2. The construction, handling and use of fireworks equipment intended for public fireworks display;

3. The general conduct and operation of public firework displays;

4. The transportation and storage of fireworks for public fireworks display;

5. The transportation and use of consumer fireworks;

6. The construction, handling, and use of pyrotechnics intended for proximate audience displays; special effects for motion picture, theatrical, and television productions;

7. The construction, handling, and use of flame effects intended for proximate audience displays, or special effects for motion picture, theatrical, and television productions;

8. The construction, handling, and use of rockets intended for proximate audience displays, or special effects for motion picture, theatrical, and television productions; and

9. The general conduct and operation of proximate audience displays.

C. This regulation shall not apply to:

1. The manufacture, sale, or storage of fireworks as governed by the SC Department of Labor Licensing and Regulation, State Board of Pyrotechnic Safety;

2. The transportation, handling, and/or use of fireworks by the SFM, his employees, or any commissioned law enforcement officers acting within their official capacities;

3. Fireworks deregulated by the USDOT;

4. Weapons used in enactments, when there is no projectile;

5. Artillery field pieces used as salutes with no projectile; and

6. The outdoor use of model rockets within the scope of NFPA 1122.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4620, eff June 24, 2016.

71–8305.2. Codes and Standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71–8300.2 and are modified by the following regulations as shown below.

B. The building code shall define occupancy classifications referenced in these regulations.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4620, eff June 24, 2016.

71–8305.3. Licensing and Permitting Fees.

A. All fees are due at time of application for licenses, tests, or permitting.

B. Permit applications are due in the OSFM fifteen business days before the performance date. Fees may be doubled for an application received less than fifteen days before the performance date.

C. The OSFM is responsible for all administrative activities of the licensing and permitting program. The SFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program.

D. Fees shall be established for the following:

1. Application
2. Background Check
3. Testing
4. Licensing
5. Permitting
6. Inspection
7. Renewal

E. All fees are due at time of application for licenses, background checks, testing, permits, inspection or renewal.

F. All fees paid to the OSFM are nonrefundable.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4620, eff June 24, 2016.

71–8305.4. Qualifications of Operators.

A. All Operators.

1. No person shall be granted a license who has not successfully completed a written examination administered by the OSFM. The exam will cover the applicable codes, state laws, and regulations and the additional requirements listed below for the specific class of license for which they are applying.

2. Any applicant who fails the written examination is allowed one re-test after a minimum seven-day waiting period. Any applicant who fails the re-test shall wait at least six months before reapplying.

3. Applicants shall submit a completed fingerprint card with their application. The OSFM will conduct a criminal background check as part of the licensing application process.

4. Operators using explosives or explosive materials must have the appropriate Federal licenses. Operators shall provide a copy of applicable Federal licenses.

5. Licenses must be renewed biennially on the day of expiration shown on the license.

6. Every two years, each licensed operator shall be required to attend training offered by the OSFM or attend pre-approved training providing a total of eight (8) hours of continuing education during the licensing cycle.

7. The OSFM may revoke, suspend, or deny a license because of, but not limited to:

a. Failure to comply with any order written by the OSFM;

b. Conviction of (1) a felony, (2) a crime of violence, or (3) any crime punishable by a term of imprisonment exceeding two years; or

c. Advocating or knowingly belonging to any organization or group which advocates violent overthrow of or violent action against the federal, state, local government, or its citizens; or

d. Having or contracting physical or mental illness or conditions that in the judgment of the OSFM would make use or possession of fireworks, pyrotechnics, or explosive materials hazardous to the licensee or the public; or

e. Violating the terms of the license or essential changes in the conditions under which the license was issued without prior approval of the OSFM;

f. Violating the state laws or regulations governing Public Fireworks Displays or Proximate Audience Pyrotechnics; or

g. Giving false information or making a misrepresentation to obtain a license.

B. Public Display Operators.

1. Applications for licensing must provide a notarized statement from a South Carolina licensed display operator that the applicant has actively participated in the set-up and operation of at least six (6) fireworks displays while holding a valid pyrotechnic operator trainee license, and the statement must indicate for each display the date, the site, and the name and license number of the supervising operator.

2. The person in charge of the Public Fireworks Display shall be licensed by the OSFM.

C. Proximate Audience Display Operators.

1. Applications for licensing must provide a notarized statement from a South Carolina licensed display operator or company that the applicant has actively participated in the set-up and operation of at least six (6) proximate audience performances while holding a valid pyrotechnic operator trainee license, and using the types of pyrotechnics for the license classification the applicant is seeking, and the statement must indicate for each display the date, the site, and the name and license number of the supervising operator. Only the OSFM may accept an alternative number of displays for this requirement based on the applicant's experience.

2. Licenses for pyrotechnic operators authorize and place the responsibility for the handling, supervision, and discharge of the fireworks or pyrotechnic device permitted by their license classification. The operator is responsible for the training of his or her assistants in the safe handling, supervision, and discharge of the fireworks or pyrotechnic devices permitted by their license classification.

a. "Pyrotechnic Operator - Unrestricted" may conduct and take charge of all activity in connection with the use of explosives or explosive materials, rockets, flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, Novelties, and other special effects permitted by the OSFM for a proximate audience display, commercial entertainment, or special effects in motion picture, theatrical, and television productions.

b. "Pyrotechnic Operator - Commercial Outdoor" may conduct and take charge of all activity in connection with the use of flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, and Novelties permitted by the OSFM for a proximate audience display and commercial entertainment.

c. "Pyrotechnic Operator - Rockets" may conduct and is restricted to all activities in connection with research, experiments, production, transportation, fuel loading, and launching of all types of experimental, solid fuel, and high power rockets. Only individuals or companies holding valid import, export, or wholesale licenses may import, export, or wholesale experimental high-powered motors.

d. "Pyrotechnic Operator - Motion Picture Special Effects" may conduct and take charge of all activity in connection with the use of explosives or explosive materials, flame effects, Display Fireworks, binary system pyrotechnics, Consumer Fireworks, Theatrical Pyrotechnics, and Novelties, and other special effects permitted by the OSFM for the sole purpose of motion picture, television, theatrical or operatic productions.

e. "Pyrotechnic Operator - Commercial Indoor" may conduct and take charge of all activity in connection with the use of binary system pyrotechnics, Theatrical Pyrotechnics, and Novelties permitted by the OSFM in stage or theatrical productions only.

f. "Pyrotechnic Operator - Trainee" must function under the direct supervision and control of a pyrotechnic operator for the license classification that he/she is seeking a license.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4620, eff June 24, 2016.

71–8305.5. Display Permits.

A. All Displays.

1. Any person who desires to hold a Public Fireworks Display or a Proximate Audience Display must obtain a permit from the OSFM before the display.

2. Permits shall be valid for up to one calendar period prescribed or until any condition of the permit application changes. The OSFM shall make final determination of a change of condition in the permit.

3. All permit forms will be made available on the OSFM website.

4. The OSFM may revoke, suspend, or deny a permit because of, but not limited to:

a. The display operator does not possess the correct license classification for the display; or

b. Not complying with any order written by the OSFM; or

c. Violating the terms of the permit or essential changes in the conditions under which the permit was issued without prior approval of the OSFM; or

d. Giving false information or making a misrepresentation to obtain a permit.

5. The following additional information must be provided with the permit application:

a. A list of the number, type, and size of fireworks or effects being discharged;

b. A Diagram of display site including measurements;

c. Directions to the site; and

d. A Copy of certificate of insurance.

6. The AHJ providing fire suppression equipment and personnel for the Public Fireworks Display must sign the permit form to acknowledge their awareness of the proposed display.

7. Permits must be posted at the display site.

8. A "Request to Modify an Existing Pyrotechnic Display Permit" form must be submitted for approval of requested changes in the conditions or terms under which a permit was previously issued.

B. Public Fireworks Display Permits.

1. The sponsor of the display shall forward a copy of the permit to the OSFM along with the items required in these regulations fifteen business days before the display. The permit becomes valid when co-signed by the OSFM.

2. The validated permit will be distributed as follows:

a. The OSFM shall retain the original;

b. A copy to the sponsor;

c. A copy to the supplier, which will authorize shipment of the fireworks;

d. A copy to the AHJ providing the fire suppression equipment and personnel for the display;

e. A copy posted at the display site.

3. All pyrotechnics shall be purchased from a pyrotechnic manufacturer or distributor licensed by the Board of Pyrotechnic Safety. A licensed Public Display Operator shall be present and supervise firing of all public fireworks displays.

4. The fireworks supplier shall carry a minimum of $1,000,000 of Public Liability Insurance. The policy must list as an additional insured the display sponsor as well as the State of South Carolina, and its agents. The coverage company must be an insurer which is either licensed by the DOI in this State or approved by the DOI as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the OSFM.

C. Proximate Audience Display Permits.

1. Public Liability Insurance in the amount of $1,000,000 shall be provided by the permittee. The permittee shall furnish a certificate of insurance in this amount with their application. The permittee shall list the State of South Carolina and its agents as additional insured.

2. Public Liability Insurance in the amount of $1,000,000 shall be provided by any permittee involved with motion picture productions. Motion picture companies employing this person(s) shall list the State of South Carolina and its agents as additional insured.

3. The coverage company must be an insurer which is either licensed by the DOI in this State or approved by the DOI as a nonadmitted surplus lines carrier for risks located in this State. In the event the liability insurance is canceled, suspended, or nonrenewed, the insurer shall give immediate notice to the OSFM.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4620, eff June 24, 2016.

71–8305.6. General Operational Requirements of Displays.

A. All Displays.

1. The operator shall have their license in their possession when conducting a display and shall exhibit their license on request of any AHJ.

2. All displays must have a person in charge that holds the proper license issued by the OSFM for the type of display being conducted.

3. The SFM or any approved AHJ may enforce these laws and regulations.

4. Magazine log shall be available for inspection during normal work hours, 1 hour before, and 1 hour after each performance.

5. Operators must notify the OSFM within 24 hours of any fires or thefts involving fireworks. The operators shall provide the OSFM with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the OSFM with a copy of ATF Form 5400.5.

6. Any person who violates any provision of these laws and regulations will purchase the appropriate permit, pay the appropriate license fee, if any are required, and be subject to the following penalty provisions:

a. S.C. Code Ann. Section 23–36–170, 1976, as amended.

b. S.C. Code Ann. Section 23–35–150, 1976, as amended.

7. Confiscation, storage, or disposal of fireworks, pyrotechnic and explosive materials used for proximate audience or public firework displays by the SFM shall comply with S.C. Code Ann. Section 23–36–110, 1976, as amended.

8. Storage of special effects pyrotechnics and other material.

a. All classes of explosives shall be stored in accordance with the South Carolina Explosives Control Act (S.C. Code Ann. Section 23–36–10, et seq., 1976, as amended) or Title 27 Code of Federal Regulations, Chapter II, Subchapter C, Part 555, Subpart K.

b. All other fireworks or pyrotechnic materials shall be stored per the appropriate NFPA standard.

9. The AHJ may require the permittee to furnish fire support personnel other than local firefighters.

B. Public Fireworks Displays.

1. Where unusual conditions exist, the AHJ may increase the minimum clearances as necessary before granting approval of the display site. The AHJ may not reduce clearances specified in NFPA 1123 without written approval of the OSFM.

2. A copy of the display permit shall be kept at the firing station.

3. Operators shall never use damaged fireworks, fireworks that are wet, or fireworks damaged by moisture. Operators shall not dry wet pyrotechnics for reuse. Operators shall handle and dispose of wet or damaged pyrotechnics per the manufacturer's instructions.

4. The operator of the display shall keep a record of all shells that fail to ignite or function. The form shall be completed and returned to the supplier within fifteen days of the display and the

operator shall retain a copy for their records. The operator and supplier shall retain Malfunction Reports for three years from the date of the display. The operator and supplier must produce these reports upon request of the OSFM. The "Malfunction Report" form shall be available on the OSFM website.

5. Moorings or anchors shall secure floating vessels or platforms used for firing of a Public Fireworks Display.

6. Operators shall not reload mortars during a display.

7. It shall be the responsibility of the permittee to arrange with the AHJ for the detailing of firefighters and equipment as required.

C. Proximate Audience Display.

1. The licensed pyrotechnic operator is responsible for the storing, handling, supervision, discharge, and removal of all pyrotechnic devices and materials based on their license classification and the terms of their permit. The licensed pyrotechnic operator is responsible for supervising and training of their assistants in the safe handling and discharge of all pyrotechnic devices.

2. The permit package shall contain a copy of the permit, Certificate of Insurance, and the MSDS(s) for material used.

3. A copy of the permit package shall be kept at the control site used to initiate the display. An audible announcement shall be made not more than 10 minutes before the display to notify personnel of the use of proximate audience pyrotechnics.

4. Motion Picture productions shall display one permit package at the production office, and maintain the second permit package on the film site through the First Assistant Director. Before the start of any effect, verbal notification of Proximate Audience Pyrotechnic use shall be required before each camera roll.

5. The AHJ may inspect the proximate audience display. As a minimum, the inspection shall cover the requirements in Annex B of NFPA 1126.

6. The permittee shall furnish a fire watch during the times the special effects materials have been removed from storage and/or magazines and the conclusion of the performance. This person shall be identified by an orange shirt or vest (or other color approved by the AHJ) with three-inch white letters on the front and back stating FIRE WATCH. For motion picture productions, the method for identifying the FIRE WATCH shall be a mutually agreed means of designation between the OSFM, the permittee, and the First Assistant Director.

7. Indoor facilities used for Proximate Audience Displays must be equipped with an automatic fire alarm system and a public address system.

a. The fire alarm system shall be zoned so that the areas affected by special effects smoke can be overridden during the event.

b. An override switch shall be provided at the firing point and a second switch in the control room to shut off stage sound and make the public address system available for evacuation instructions. These switches must be labeled and visible throughout the show.

c. The fire alarm system must be returned to normal operation before the fire watch and the display operator may leave the facility.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4620, eff June 24, 2016.

71–8305.7. Use of Consumer Fireworks in South Carolina.

A. It shall be deemed a violation of these regulations to:

1. Explode or ignite fireworks within 600 ft. of any Assembly Occupancy, Educational Occupancy, Hazardous Occupancy, Institutional Occupancy, or any facility storing or dispensing flammable liquids, combustible liquids, LP-Gas, or other hazardous materials;

2. Explode or ignite fireworks within 75 ft. of where fireworks are stored, sold or offered for sale;

3. Ignite, discharge, and/or throw fireworks from any motor vehicle or to place, ignite, discharge, and/or throw fireworks into or at any motor vehicle; and

4. Ignite or discharge fireworks in a wanton or reckless manner to constitute a threat to the personal safety or property of another.

B. The distances in R.71–8305.7 A (1) may be reduced if the display is permitted with the OSFM as a Public Fireworks Display or as a Proximate Audience Display.

C. Consumer Fireworks shall not be used for a Public Fireworks Display unless permitted by the OSFM per the applicable provisions of this regulation and all permit fees are paid.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4620, eff June 24, 2016.

71–8305.8. Transportation of Fireworks or Pyrotechnics in South Carolina.

A. Vehicles transporting Display Fireworks (pyrotechnics classified as 1.3 explosives) in any quantity and Consumer Fireworks (pyrotechnics classified as 1.4 explosives) in quantities greater than 1000 lbs. shall be in the custody of drivers possessing an appropriate valid commercial drivers license (CDL) with a hazardous materials endorsement.

B. On both sides, on the front, and on the rear, vehicles transporting Display Fireworks (pyrotechnics classified as 1.3 explosives) in any quantity and Consumer Fireworks (pyrotechnics classified as 1.4 explosives) in quantities greater than 1000 lbs. shall prominently display signs marked "EXPLOSIVES" that conform to the USDOT and other federal regulations.

C. Appropriate fire and police authorities shall be promptly notified when a vehicle transporting pyrotechnics is involved in an accident, break down, or fire. Only in the event of such an emergency shall the transfer of pyrotechnics from one vehicle to another be allowed on highways and then only when qualified supervision is provided.

D. Any vehicle used for the transportation of pyrotechnics covered by item A or B above shall have not less than one approved-type fire extinguisher with a minimum rating of 2A 10 B:C and shall be so located as to be readily available for use.

E. Operators must notify the OSFM within 24 hours of any fires or thefts involving fireworks. The operator shall provide the OSFM with a copy of the report filed with the police department or the incident report from the fire department. Operators must also provide the OSFM with a copy of ATF Form 5400.5.

HISTORY: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; State Register Volume 38, Issue No. 4, eff April 25, 2014; State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014; State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4620, eff June 24, 2016.

SUBARTICLE 7
HYDROGEN FACILITIES

71–8306. HYDROGEN FACILITIES.

(Statutory Authority: 1976 Code Section 23–9–550)

71–8306.1. General.

A. The purpose of these regulations are to provide reasonable safety and protection to the public, public property, private property from the hazards associated with the handling, use, storage, transfer and dispensing at a hydrogen facility.

B. This regulation shall apply to:

1. Hydrogen dispensing stations for public or commercial use as a transportation fuel and motor vehicle fuel or in a fuel cell;

2. Bulk hydrogen compressed gas systems for a hydrogen facility;

3. Bulk liquefied hydrogen gas systems for a hydrogen facility;

4. Commercial hydrogen generation systems connected to a hydrogen facility; and

5. Engineered and pre-engineered hydrogen fuel cell systems.

C. This regulation shall not apply to:

1. The manufacture, sale, or storage of small scale hydrogen generation or consumption systems where hydrogen is held in containers of one liter or less and Maximum Allowable Quantities (MAQ) are not exceeded.

2. The transportation, handling, and/or use of hydrogen by the State Fire Marshal, his employees, or any commissioned law enforcement officers acting within their official capacities.

3. The manufacture or transportation of bulk hydrogen.

4. Hydrogen used as an ingredient or by product in the manufacture of a product.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014. Amended by State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4621, eff June 24, 2016.

Editor's Note

Former R. 71–8306.1 was titled **General** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

71–8306.2. Codes and standards.

A. All references to codes and standards found in these regulations refer to the editions adopted in R.71–8300.2 and are modified by the following regulations as shown below.

B. All facilities shall be designed and installed in accordance with the adopted codes and standards listed in R.71–8300.2.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014. Amended by State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4621, eff June 24, 2016.

Editor's Note

Former R. 71–8306.2 was titled **Codes and Standards** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

71–8306.3. Engineered and pre-engineered systems.

A. Engineered hydrogen systems.

1. All installations shall be in accordance with South Carolina Laws, Regulations, and adopted Codes.

2. Plans and specifications prepared by a licensed engineer or prepared under the licensee's direct supervision must be stamped with seals prior to submission and review by OSFM.

B. Pre-engineered hydrogen systems.

1. All installations shall be in accordance with South Carolina Laws, Regulations, and adopted Codes.

2. Plans and specifications are not required to be prepared by a licensed engineer nor be stamped with seals prior to submission and review by OSFM.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014. Amended by State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4621, eff June 24, 2016.

Editor's Note

Former R. 71–8306.3 was titled **Reports** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

71–8306.4. Permit application requirements for hydrogen facilities.

A. The OSFM may issue a permit to a location when presented a completed application that contains at least the following, where applicable:

1. A site plan, drawn to scale, which shows equipment locations and point(s) of transfer with respect to property lines, nearby structures, roads & dikes, power lines, and other potential ignition sources;

2. An accidental release plan;

3. The piping layout with valves and fitting details;

4. Normal and emergency ventilation designs;

5. Container capacity (or capacities) and design standards;

6. Electrical plan;

7. Container and piping support details;

8. Information concerning onsite fire protection equipment;

9. Information concerning the project's beginning and ending points, if part of a larger system;

10. Listed equipment with listing agency;

11. Unless exempted, design documents sealed by an engineer licensed in South Carolina; and,

12. All applicable fees paid in full.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014. Amended by State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4621, eff June 24, 2016.

Editor's Note

Former R. 71–8306.4 was titled **Fire Protection Systems** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

71–8306.5. Licensing and permitting fees.

A. All fees are due at time of application for licenses, tests, or permitting.

B. Permit applications are due in the OSFM prior to construction or installation.

C. Approval of plans for hydrogen facilities are to be obtained prior to start of construction or installation.

D. The OSFM is responsible for all administrative activities of the licensing program. The OSFM shall employ and supervise personnel necessary to effectuate the provisions of this article and shall establish fees sufficient but not excessive to cover expenses, including direct and indirect costs to the State for the operation of this licensing program.

E. Fees shall be established for the following:

1. Application fee $10

2. Permitting fee (includes plan review and initial site inspection) $250.

3. Inspection fee (semi-annual) $100.

4. Renewal of permits (annual - includes inspection) $100.

F. The application fee is due at time of application for license.

G. All fees paid to the OSFM are nonrefundable.

HISTORY: Added by State Register Volume 38, Issue No. 6, Doc. No. 4445, eff June 27, 2014. Amended by State Register Volume 39, Issue No. 6, Doc. No. 4555, eff June 26, 2015; State Register Volume 40, Issue No. 6, Doc. No. 4621, eff June 24, 2016.

Editor's Note

Former R. 71–8306.5 was titled **Operations** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999. Amended by State Register Volume 33, Issue No. 5, eff May 22, 2009; Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

71–8307. Fire Extinguishers—Portable and Fixed Station. [Repealed]

71–8307.1. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.1 was titled **Purpose** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.2. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.2 was titled **Administration; Filing of Publications; Statutes, Provisions of Other Codes and Ordinances** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.3. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.3 was titled **Definitions** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.4. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.4 was titled **Licensing Requirements: Fire Equipment Dealer Licenses** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.5. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former 71–8307.5 was titled **Licensing Requirements: Fire Equipment Permits** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.6. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.6 was titled **Licensing Requirements: For Firms Performing Hydrostatic Testing** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.7. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.7 was titled **Types of Equipment** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.8. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.8 was titled **Installation and Maintenance Procedures** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.9. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.9 was titled **Permit Requirements** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.10. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.10 was titled **Minimum Equipment and Facility Requirements for Fire Equipment Dealer License** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.11. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.11 was titled **Exceptions** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.12. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.12 was titled **Applications; Hearings on Licenses and Permits** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.13. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.13 was titled **Powers and Duties of the State Fire Marshal** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.14. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.14 was titled **Certain Acts Prohibited** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.15. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.15 was titled **Cease and Desist Orders; Notice to Correct Hazardous Conditions** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.16. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.16 was titled **Suspension or Revocation of License or Permit** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.17. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.17 was titled **Responsibility of Equipment Manufacturer** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8307.18. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8307.18 was titled **Penalties** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308. Fire Safety: Construction and Operation of Local Detention Facilities. [Repealed]

71–8308.1. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.1 was titled **Application** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.2. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.2 was titled **Definitions** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.3. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.3 was titled **Policy** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.4. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.4 was titled "Fire Detection Equipment" and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.5. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.5 was titled **Fire Control Equipment** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.6. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.6 was titled **Fire Detection, Control, and Protection Equipment Specifications and Installation** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.7. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.7 was titled **Hazardous Areas** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.8. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.8 was titled **Prohibition of Polyurethane Products** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.9. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.9 was titled **Fire Retardant Paint** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.10. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.10 was titled **Minimum Requirements** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.11. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.11 was titled **Emergency Fire Plans and Procedures** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.12. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.12 was titled **Fire Hazard Policies** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.13. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.13 was titled **Training** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8308.14. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8308.14 was titled **Reporting** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309. Fire Safety: Existing Local Detention Facilities. [Repealed]

71–8309.1. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.1 was titled **Application** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.2. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.2 was titled **Definitions** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.3. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.3 was titled **Policy** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.4. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.4 was titled **Fire Detection Equipment** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.5. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.5 was titled **Fire Control Equipment** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.6. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.6 was titled **Fire Detection, Control and Protection Equipment Specifications and Installation** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.7. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.7 was titled **Exits** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.8. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.8 was titled **Hazardous Areas** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.9. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.9 was titled **Prohibition of Polyurethane Products** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.10. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.10 was titled **Fire Retardant Paint** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.11. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.11 was titled **Other Code Requirements** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.12. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.12 was titled **Emergency Fire Plans and Procedures** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.13. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.13 was titled **Fire Hazard Policies** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.14. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.14 was titled **Training** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8309.15. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8309.15 was titled **Reporting** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8310. Fire Safety: Renovation of Existing Local Detention Facilities. [Repealed]

71–8310.1. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8310.1 was titled **Review of Plans** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8310.2. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8310.2 was titled **Compliance with Regulations** and had the following history: Added by State Register Volume 23, Issue No. 6, eff June 25, 1999.

71–8312. Repealed by State Register Volume 38, Issue No. 4, eff April 25, 2014.

Editor's Note

Former R. 71–8312 was titled **Proximate Audience Pyrotechnics** and had the following history: Added by State Register Volume 26, Issue No. 6, eff June 25, 1999.

ARTICLE 9
BOILER SAFETY PROGRAM

(Statutory Authority: 1976 Code §§ 41–14–10 through 41–14–150)

SUBARTICLE 1
GENERAL

71–9100. Requirement of Filing Inspection Report to Claim Exemption.

Boilers described in S.C. Code 41–14–60(3), (4), (5), (6), and (7) may claim exemption from these regulations by filing with the Department an inspection report indicating that the boiler has been inspected at the appropriate frequency. The inspection report may be in the form of a report of inspection from a certified special inspector. The inspection report may also be in the form of a certification of insurance which identifies the boiler as required by S.C. Code 41–14–70(2) and contains evidence that the boiler has been inspected at the appropriate frequency and approved by the insurer.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

71–9101. Definitions.

For the purposes of this Chapter all definitions from the Boiler Safety Act apply. In addition the following definitions apply.

1. 'Act' means the Boiler and Pressure Vessel Safety Act, which were enacted as Title 41, Chapter 14, of the S.C. Code of Laws.

2. 'Alteration' means any change in the item described on the original Manufacturer's Data Report which affects the pressure-containing capability of the boiler or pressure vessel. Nonphysical changes such as an increase in the maximum allowable working pressure (internal or external) or design temperature of a boiler shall be considered an alteration. A reduction in minimum temperature such that additional mechanical tests are required shall also be considered an alteration.

3. 'Approved' means approved by the Department of Labor, Licensing and Regulation.

4. 'ASME Code' means The Boiler and Pressure Vessel Code published by the American Society of Mechanical Engineers, including addenda and code cases approved by the council of that Society.

5. 'Authorized Inspection Agency' means one of the following:

a. New Construction: An Authorized Inspection Agency is one that meets the qualification and definition of NB-360, Criteria for Acceptance of Authorized Inspection Agencies for New Construction.

b. Inservice: An Authorized Inspection Agency is either:

i. a jurisdictional authority as defined in the National Board Constitution, or

ii. an entity that is accredited in accordance with NB-369, Qualifications and Duties for Authorized Inspection Agencies (AIAs) Performing Inservice Inspection Activities and Qualifications for Inspectors of Boilers and Pressure Vessels.

6. 'Special Inspector Certificate' means a certificate issued by the Department to a person who meets the requirements of the S.C. Code 41–14–80 and these regulations.

7. 'Internal Inspection' means as complete an examination as can reasonably be made of the internal and external surfaces of a boiler while it is shut down, and manhole plates, handhold plates or other inspection-opening closures are removed as required by the inspector.

8. 'External Inspection' means an inspection made when a boiler is in operation, if possible.

9. 'Commission; National Board' means the commission issued by The National Board of Boiler and Pressure Vessel Inspectors to a holder of a certificate of competency who desires to make shop inspections or field inspections in accordance with the National Board bylaws and whose employer submits the inspector's application to the National Board for such commission.

10. 'Condemned Boiler' means a boiler that has been inspected and declared unsafe or disqualified by legal requirements by an inspector, and a stamping or marking has been applied by the chief or a special inspector designating its condemnation.

11. 'Existing Installation' means includes any boiler constructed, installed, placed in operation, or contracted for before December 31, 2005.

12. 'Hot Water Storage Tank' means a closed vessel connected to a water heater used exclusively to contain potable water.

13. 'Lined Potable Water Heater' means a water heater with a corrosion-resistant lining used to supply potable hot water.

14. 'National Board' means the National Board of Boiler and Pressure Vessel Inspectors (NB), 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief boiler administrators of jurisdictions who are charged with the enforcement of the provisions of the Boiler and Pressure Vessel Safety Act.

15. 'National Board Inspection Code Ansi/Nb-23' means the code for jurisdictional authorities, inspectors, users, and organizations performing repairs and alterations to pressure-retaining items; published by the National Board.

16. 'National Board Commission' means a certificate issued by the National Board to an individual who has passed the National Board Examination, who holds a valid certificate of competency and who is regularly employed by an Authorized Inspection Agency.

17. 'National Board Commissioned Inspector' means an individual who holds a valid Certificate of Competency to perform in-service, repair and alteration inspections as defined by the National Board Inspection Code; holds a National Board commission; and is regularly employed as an inspector by an Authorized Inspection Agency.

18. 'New Boiler Installation' means includes all boilers constructed, installed, placed in operation or contracted for after December 31, 2005.

19. 'Nonstandard Boiler' means a boiler that does not bear a stamp acceptable to South Carolina, or otherwise does not comply with the Act or stated rules and regulations of this state.

20. 'Original Code of Construction' means documents promulgated by recognized national standards-writing bodies that contain technical requirements for construction of pressure retaining items or equivalent to which the original manufacturer certified the pressure-retaining item.

21. 'Owner or User' means any person, firm, or corporation legally responsible for the safe installation, operation, and maintenance of any boiler within South Carolina.

22. 'Pressure-Retaining Item (PRI)' means any boiler, pressure vessel, piping, or material used for the containment of pressure, either internal or external. The pressure may be obtained from an external source, or by the application of heat from a direct source, or any combination thereof.

23. 'PSIG' means pounds per square inch gauge.

24. 'Reinstalled Boiler' means a boiler removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

25. 'Relief valve' means a pressure relief valve actuated by inlet static pressure having a gradual lift generally proportional to the increase in pressure over opening pressure. It may be provided with an enclosed spring housing suitable for closed discharge system application and is primarily used for liquid service.

26. 'Repair' means the work necessary to restore a pressure-retaining item to a safe and satisfactory operating condition.

27. 'Repair/Pressure Relief valve' means the replacement, re-machining, or cleaning of any critical part, lapping of seat and disk, or any other operation, which may affect the flow passage, capacity function, or pressure-retaining ability of the valve. Disassembly, reassembly, and/or adjustments, which affect the pressure relief valve function are also considered a repair.

28. 'Safety Relief valve' means depending on application, a pressure relief valve characterized by rapid opening or pop action, or by opening in proportion to the increase in pressure over opening pressure.

29. 'Safety valve' means a pressure relief valve actuated by inlet static pressure and characterized by rapid opening or pop action.

30. 'Secondhand Boiler' means a boiler, which has changed both location and ownership since primary use.

31. 'Standard Boiler' means a boiler which bears the stamp of South Carolina, the ASME stamp, the API/ASME stamp, both the ASME and National Board stamp, or the stamp of another jurisdiction which has adopted a standard of construction equivalent to that required by the Board.

32. 'Water Heater' means a closed vessel used to supply potable hot water which is heated by the combustion of fuels, electricity, or any other source and withdrawn for use external to the system at pressures not exceeding 160 psig, or a heat input of 200,000 BTU per hour, and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

SUBARTICLE 2
ADMINISTRATION

71–9102. Administration.

A. Minimum Construction Standards for Boilers

1. All new boilers installed and operated in South Carolina, unless otherwise exempted, shall be designed and constructed in accordance with the ASME Code or a nationally recognized Code of Construction accepted by South Carolina. All new boilers installed in South Carolina shall be marked in accordance with the Code of Construction and shall be registered in accordance with NB-264, Criteria for Registration of Boilers, Pressure Vessels and Other Pressure-Retaining Items, or listed in accordance with NB-265, Criteria for Listing of Boilers, Pressure Vessels and Other Pressure-Retaining Items Not Registered with the National Board. Pressure-relieving devices shall be constructed to the ASME Code and certified by the National Board in accordance with NB-500, Criteria for Certification of Pressure Relief Devices. Copies of registration or listing documents shall be provided to the chief boiler administrator when requested.

2. State Special - a boiler that is of special design and construction where the owner has demonstrated that the special design and construction will provide an equivalent degree of safety to that of conformance with these regulations.

3. An application for permission to install a second hand boiler shall be filed before the owner or user installs the boiler with the chief boiler administrator and his/her approval obtained.

B. Frequency of Inspections of Boilers

1. Except as permitted in (a.) below, power boilers and high-temperature water boilers shall receive an inspection annually which shall be an internal inspection where construction permits; otherwise, it shall be as complete an inspection as possible. Such boilers shall also be inspected externally annually while under normal operating conditions.

a. Alternative internal inspection requirements:

i. Fully attended power boilers and high-temperature boilers are extended to thirty-six (36) months provided that the following requirements are met:

(a). Continuous boiler water treatment under the direct supervision of persons trained and experienced in water treatment for the purpose of controlling and limiting corrosion and deposits.

(b). Record-keeping available for review, showing:

(1) The date and time the boiler is out of service and the reason therefore.

(2) Daily analysis of water samples that adequately show the conditions of the water and elements or characteristics that are capable of producing corrosion or other deterioration to the boiler or its parts.

(c). Controls, safety devices, instrumentation, and other equipment necessary for safe operation are up-to-date, in service, calibrated, and meet the requirements of an appropriate safety code for that size boilers, such as NFPA 85, ASME CSD-1 Controls and Safety Devices for

Automatically Fired Boilers, National Board Inspection Code ANSI/NB-23, jurisdictional requirements, and are not compromised.

2. Low-pressure boilers, water heaters, and hot water storage tanks covered by these rules and regulations shall receive an inspection biennially.

a. Steam or vapor boilers shall have an external inspection and an internal inspection every two years where construction permits;

b. Hot water heating and hot water supply boilers shall have an external inspection biennially and, where construction permits, an internal inspection at the discretion of the inspector;

c. Water heaters, including hot water storage tanks, shall have an external inspection every two years, which shall include the function of all controls and devices.

3. Based upon documentation of actual service conditions by the owner or user of the operating equipment, the Department of Labor, Licensing and Regulation may, in its discretion, permit variations in the inspection frequency requirements as provided in the Act.

4. Historical boilers, defined as steam boilers of riveted construction, preserved, restored, or maintained for hobby or demonstration use, shall be subjected to an initial inspection followed by an inspection every three (3) years thereafter if stored inside a shelter and annually if stored outdoors. The initial inspection shall include ultrasonic thickness testing of all pressure boundaries. All thinned areas shall be monitored and recorded on the inspection report.

C. Notification of Inspection

1. Inspections shall be carried out at a time mutually agreeable to the inspector and owner or user.

2. The inspector may perform external inspections during reasonable hours and without prior notification.

3. When, as a result of external inspection or determination by other objective means, it is the inspector's opinion that continued operation of the boiler constitutes a menace to public safety, the inspector may request an internal inspection or an appropriate pressure test, or both, to evaluate conditions. In such instances, the owner or user shall prepare the boiler, pressure vessel or nuclear system for such inspections or tests as the inspector may designate.

D. Examination for a Special Inspector's Certificate

1. An applicant for certification as a special inspector shall have qualifications as required by S.C. Code Section 41–14–80. Examination may be taken at any site approved by the National Board of Boiler and Pressure Vessel Inspectors.

2. The request for certification as a Special Inspector shall be completed on forms to be provided by the Department.

3. Each Special Inspector's certificate shall remain in effect until cancelled by the Department so long as the national commission (or other underlying state commission) is current. Failure to respond to a request for commission information shall result in immediate cancellation of the certificate.

E. Conflict of Interest

An inspector shall not engage in the sale of any services, article or device relating to boilers, pressure vessels, or their appurtenances.

F. Initial Inspection Reports to be Submitted by Special Inspectors or by the insurer:

1. Special Inspectors or the insurer shall submit an initial inspection report on a form approved by the department (or on a Form NB-5). The owner must have a special inspector or insurer submit this report within one year of the effective date of these rules and regulations.

2. Inspection reports shall be submitted within 30 days from date of completion of the inspection.

3. The Special Inspector or insurer shall forward a copy of the inspection report to the boiler user location within 30 days from the date of inspection. If the boiler fails the inspection, the Special Inspector or insurer shall submit a report to the boiler user location within 10 days of the inspection.

4. To initially register the boiler, the Special Inspector or insurer shall affix a department issued boiler registration number. The registration number shall be placed in a conspicuous position and visible to any inspector.

G. Special Inspectors to Notify Chief Boiler Administrator of Unsafe Boilers

If a special inspector finds a boiler to be unsafe for further operation, the special inspector shall promptly notify the owner or user, stating what repairs or other corrective measures are required to bring the object into compliance with these rules and regulations. Unless the owner or user makes such repairs or adopts such other corrective measures promptly, the special inspector shall immediately notify the chief boiler administrator who may issue a written order for the temporary cessation of operation of the boiler. When re-inspection establishes that the necessary repairs have been made or corrective actions have been taken and that the boiler is safe to operate, the chief boiler administrator shall be notified. At that time, the order for temporary cessation of operation will be rescinded.

H. Defective Conditions Disclosed at Time of External Inspection

If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler. If the covering cannot be removed at that time, he/she may order the operation of the boiler stopped until such time as the covering can be removed and proper examination made.

I. Owner or User to Notify Chief Boiler Administrator of Accident

When an accident occurs to a boiler which results in personal injury to any person or results in the emergency shut-down of the boiler, the owner or user shall promptly notify the chief boiler administrator and submit a detailed report of the accident. In the event of a personal injury or any explosion, notice shall be given immediately by telephone, or accepted means of electronic communication, and neither the boiler nor any parts thereof, shall be removed or disturbed before permission has been given by the Department of Labor, Licensing, and Regulation, except for the purpose of saving human life and limiting consequential damage. If the Department of Labor, Licensing, and Regulation cannot respond within 6 hours, the owner can proceed with repairs, but must document the as found conditions.

J. Filing of Subsequent Inspection Reports

1. If a boiler after inspection is found to be suitable and to conform to these rules and regulations, the owner or user shall file a copy of the inspection report or the certificate of insurance, which contains evidence identifying each boiler that was inspected and approved. Identifying evidence must include the boiler's national number, state number and physical location. This report may be made in an electronic format accepted by South Carolina or may be on a form approved by the department or on a Form NB-6 or 7.

2. The owner shall submit a filing fee in the amount of twenty five_dollars per boiler. Checks and money orders for payment of inspection report fees shall be made payable to the Department of Labor, Licensing and Regulation - Boiler Safety Program.

K. Stamping/Restamping of Boilers

1. The stamping shall not be concealed by lagging or paint and shall be exposed at all times unless a suitable record is kept of the location of the stamping so that it may be readily uncovered at any time this may be desired.

2. When the stamping on a boiler becomes indistinct, the inspector shall instruct the owner or user to have it re-stamped. Request for permission to re-stamp the boiler shall be made to the chief boiler administrator and proof of the original stamping shall accompany the request. The chief boiler administrator may grant such authorization. Re-stamping authorized by the Department of Labor, Licensing and Regulation shall be done only in the presence of a person holding a National Board Commission and shall be identical with the original stamping except for the ASME Code symbol stamp. Notice of completion of such stamping shall be filed with the chief boiler administrator by the inspector who witnessed the stamping on the boiler together with a facsimile of the stamping applied.

L. Condemned Boilers

Any boiler having been inspected and declared unfit for further service by an inspector shall be stamped by the chief boiler administrator on either side of the South Carolina identification number with the letters "XXX" as shown by the preceding facsimile, which will designate a condemned boiler.

M. Reinstallation of Boilers Moved Outside the Jurisdiction

When a standard boiler located within South Carolina is to be moved outside the state for temporary use or for repair, alteration, or modification, application shall be made by the owner or user to the

chief boiler administrator for permission to reinstall the boiler in South Carolina. When a nonstandard boiler is removed from South Carolina, it shall not be reinstalled within the state.

N. Installation of Used or Secondhand Boilers

Before a used or secondhand boiler may be shipped for installation in South Carolina, an inspector holding a valid National Board commission must make an inspection, and the owner or user of the boiler shall file data submitted by him/her with the chief boiler administrator and with the local building official. Such boilers when installed in South Carolina shall be equipped with fittings and appurtenances that comply with the rules and regulations for new installations.

O. Reinstalled Boilers

When a stationary boiler is moved and reinstalled within South Carolina, the attached fittings and appurtenances shall comply with these rules and regulations for new installations.

P. Working Pressure for Existing Installations

Any inspector may decrease the working pressure on any existing installation if the condition of the boiler warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the Department.

Q. Safety Appliances

1. No person shall attempt to remove or do any work on any safety appliance prescribed by these rules and regulations while the appliance is subject to pressure.

2. Should any of these appliances be removed for repair during an outage of a boiler or pressure vessel, they must be reinstalled and in proper working order before the object is again placed in service.

3. No person shall alter any safety or safety relief valves or pressure relief devices in any manner to maintain a working pressure in excess of that stated on the report of the boiler or pressure vessel inspection.

R. Application of Serial Numbers

1. Upon completion of the installation of a boiler, or at the time of the initial inspection of an existing installation, each boiler shall be identified by a number unique to that item.

S. Variations

1. Any person who believes the boiler safety standards promulgated by the Department impose an undue burden upon the owner or user may request a variation from such rule or regulation. The request for variation shall be in writing and shall specify how equivalent safety is to be maintained. The Department, after investigation and such hearing as it may direct, may grant such variation from the terms of any rule or regulation provided such special conditions as may be specified are maintained in order to provide equivalent safety.

2. A copy of the application for variation shall be given by the owner or use to affected employees and to the local fire authority, who shall be given adequate opportunity to respond in writing and to appear and offer evidence at any hearing.

3. When there is a reason to believe, or upon receipt of a complaint that a variation does not provide freedom from danger equivalent to the published rule or regulation, the Department after notice to the owner or user to the complainant and to the affected employees and the local fire authority and after such hearing and investigation as it may direct, may continue to reaffirm, suspend, revoke, or modify the conditions specified in any variation. No declaration, act, or omission of the Department, chief boiler administrator, or special inspectors, other than a written order authorizing a variation as permitted above, shall be deemed to exempt, either wholly or in part, expressly or implied, any owner or user from full compliance with the terms of any rule or regulation.

T. Temporary or Leased Boilers

The owner of a leased boiler shall provide to any person who leases it, documentation that the boiler is registered in accordance with NB-264 or 265 and a copy of its most recent inspection report, showing that it has been inspected according to the frequency provided in the act. South Carolina will recognize inspection reports by inspectors with valid commission from other jurisdictions.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

SUBARTICLE 3
EXISTING INSTALLATION

All special inspectors shall apply the following standards to existing installations in South Carolina.

71–9103.1. Power Boilers.

A. EBO-1 Age Limit of Existing Boilers

1. The age limit of any boiler of nonstandard construction, installed prior to the date the Act became effective, shall be 30 years, except that a boiler having other than a lap-riveted longitudinal joint, after a thorough internal and external inspection and, when required by the inspector, a pressure test of 1–1/2 times the allowable working pressure held for a period of at least 30 minutes during which no distress or leakage develops, may be continued in operation at the working pressure determined by EB0-3. The age limit of any nonstandard boiler having lap-riveted longitudinal joints and operating at a pressure in excess of 50 psig shall be 20 years. This type of boiler, when removed from an existing setting, shall not be reinstalled for a pressure in excess of 15 psig. A reasonable time for replacement, not to exceed one year, may be given at the discretion of the Board.

2. The age limit of boilers of standard construction installed prior to the date this law became effective shall be dependent on thorough internal and external inspection and, where required by the inspector, a pressure test not exceeding 1–1/2 times the allowable working pressure. If the boiler, under these test conditions, exhibits no distress or leakage, it may be continued in operation at the working pressure determined by EB0-2.

3. The shell or drum of a boiler in which a lap seam crack develops along a longitudinal lap riveted joint shall be condemned. A lap seam crack is a crack found in lap seams extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.

B. EB0-2 Maximum Allowable Working Pressure for Standard Boilers

The maximum allowable working pressure for standard boilers shall be determined in accordance with the applicable provisions of the edition of the ASME Code under which they were constructed and stamped.

C. EB0-3 Maximum Allowable Working Pressure for Nonstandard Boilers

1. The maximum allowable working pressure for boilers fabricated by riveting shall be determined by the applicable rules of the 1971 Edition of Section I of the ASME Code. The lowest factor of safety permissible on existing installations shall be 5.0, except for horizontal-return-tubular boilers having continuous longitudinal lap seams more than 12 ft. in length, where the factor of safety shall be 8. When this latter type of boiler is removed from its existing setting, it shall not be reinstalled for pressures in excess of 15 psig.

2. The maximum allowable working pressure for boilers of welded construction in service may not exceed that allowable in Section I of the ASME Code for new boilers of the same construction. The maximum allowable working pressure on the shell of a boiler or drum shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside diameter of the course, and the factor of safety allowed by these rules in accordance with the following formula:

(TS)(t)(E)(R)(FS) = maximum allowable working pressure, psig where:

(TS) = specified minimum tensile strength of shell plate material, psi. When the tensile strength of steel or wrought-iron shell plate is not known, it shall be taken as 55,000 psi for steel and 45,000 psi for wrought iron

(t) = minimum thickness of shell plate, in weakest course, inches

(E) = efficiency of longitudinal joint, method of determining which is given in Paragraph PG-27 of Section I of the ASME Code

(R) = inside radius of the weakest course of the shell or drum, inches

(FS) = factor of safety, which shall be at least 5.0

3. The inspector may increase the factor of safety, if the condition and safety of the boiler warrant it.

D. EB0-4 Cast-Iron Headers and Mud Drums

The maximum allowable working pressure on a water tube boiler, the tubes of which are secured to cast-iron or malleable iron headers, or which have cast-iron mud drums, shall not exceed 160 psig.

E. EB0-5 Pressure on Cast-Iron Boilers

The maximum allowable working pressure for any cast-iron boiler, except hot water boilers, shall be 15 psig. See EHB-1, 2, and 4.

F. EB0-6 Safety Valves

1. The use of weighted-lever safety valves or safety valves having either the seat or disk of cast-iron are prohibited; valves of this type of construction shall be replaced by direct, spring loaded, pop-type valves that conform to the requirements of ASME Code, Section 1.

2. Each boiler shall have at least one ASME/NB stamped and certified safety valve, and if it is a high pressure boiler with a high pressure more than 500 sq. ft. of water-heating surface, or an electric power input of more than 1,100 KW, it shall have two or more safety valves of the same type.

3. The valve or valves shall be connected to the boiler, independent of any other steam connection and attached as close as possible to the boiler without unnecessary intervening pipe or fittings. Where alteration is required to conform to this requirement, owners or users shall be allowed reasonable time in which to complete the work as permitted by the chief boiler administrator.

4. No valves of any description shall be placed between the safety valve and the boiler or on the escape pipe, if used. When an escape pipe is used, it shall be at least the full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the escape pipe. When an elbow is placed on a safety valve escape pipe, it shall be located close to the safety valve outlet, or the escape pipe shall be anchored and supported securely. All safety discharges shall be located and carried by a pipe clear from walkways or platforms.

5. The safety valve capacity of each boiler shall be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6 percent above the highest pressure to which any valve is set, and in no case to more than 6 percent above the maximum allowable working pressure.

6. One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of 3 percent above the maximum allowable working pressure, but the range of setting of all the safety valves on a boiler shall not exceed 10 percent of the highest pressure to which any valve is set.

7. When boilers of different maximum allowable working pressures with minimum safety valve settings varying more than 6 percent are so connected that steam can flow toward the lower pressure units, the latter shall be protected by additional safety valve capacity, if necessary, on the lower pressure side of the system. The additional safety valve capacity shall be based upon the maximum amount of steam, which can flow into the lower pressure system.

8. In those cases where the boiler is supplied with feed water directly from water mains without the use of feeding apparatus (not to include return traps), no safety valve shall be set at a pressure greater than 94 percent of the lowest pressure obtained in the supply main feeding the boiler.

9. The relieving capacity of the safety valves on any boiler shall be checked by one of the following three methods and, if found to be insufficient, additional valves shall be provided:

a. By making an accumulation test, which consists of shutting off all other steam discharge outlets from the boiler and forcing the fires to the maximum. The safety valve capacity shall be sufficient to prevent a rise of pressure in excess of 6 percent of the maximum allowable working pressure. This method should not be used on a boiler with a super heater or re-heater;

b. By measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity (steam-generating capacity) upon the basis of the heating value of this fuel. These computations shall be made as outlined in the Appendix of the ASME Code, Section l;

c. By measuring the maximum amount of feed water that can be evaporated.

d. When either of the methods outlined in b or c is employed, the sum of the safety valve capacities shall be equal to or greater than the maximum evaporative capacity (maximum steam-generating capacity) of the boiler.

G. EB0-7 Boiler Feeding

Each boiler shall have a feed supply, which will permit it to be fed at any time while under pressure. A boiler having more than 500 sq. ft. of water heating surface shall have at least two suitable means of feeding, at least one of which shall be a feed pump. A source of feed at a pressure 6 percent greater than the set pressure of the safety valve with the highest setting may be considered one of the means. Boilers fed by gaseous, liquid, or solid fuel in suspension may be equipped with a single means of feeding water, provided means are furnished for the shutoff of heat input prior to the water level reaching the lowest safe level. The feed water shall be introduced into a boiler in such a manner that the water will not be discharged directly against surfaces exposed to gases of high temperature to direct radiation from the fire. For pressures of 400 psig or over, the feed water inlet through the drum shall be fitted with shields, sleeves, or other suitable means to reduce the effects of temperature differentials in the shell or head. The feed piping to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and the source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disk of the valve. In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve in each return line, the stop valve to be placed between the boiler and the check valve, and both shall be located as close to the boiler as is practicable. It is recommended that no stop valves be placed in the supply and return pipe connections of a single boiler installation. Where deaerating heaters are not employed, it is recommended that the temperature of the feed water be not less than 120°F to avoid the possibility of setting up localized stress. Where deaerating heaters are employed, it is recommended that the minimum feed water temperature be not less than 215°F so that dissolved gases may be thoroughly released.

H. EB0-8 Water Level Indicators

1. Each boiler, except forced-flow steam generators with no fixed steam and waterline, and high temperature water boilers of the forced circulation type that have no steam and waterline, shall have at least one water gauge glass. Boilers operated at pressures over 400 psig shall be provided with two water gauge glasses which may be connected to a single water column or connected directly to the drum.

2. Two independent remote level indicators may be provided instead of one of the two required gauge glasses for boiler drum water level indication in the case of power boilers with all drum safety valves set at or above 900 psig. When both remote level indicators are in reliable operation, the remaining gauge glass may be shut off, but shall be maintained in serviceable condition.

3. When the direct reading of the gauge glass water level is not readily visible to the operator in his/her working area, two dependable indirect indications shall be provided, either by transmission of the gauge glass image or by remote level indicators.

4. The lowest visible part of the water gauge glass shall be at least 2 in. above the lowest permissible water level, at which level there will be no danger of overheating any part of the boiler when in operation at that level. When remote level indication is provided for the operator in lieu of the gauge glass, the same minimum level reference shall be clearly marked.

5. Connections from the boiler to the remote level indicator shall be at least 3/4 in. pipe size to and including the isolation valve and from there to the remote level indicator at least 1/2 in. O.D. tubing. These connections shall be completely independent of other connections for any function other than water level indication. For pressures of 400 psig or over, lower connections to drums shall be provided with shields, sleeves, or other suitable means to reduce temperature differentials in the shells or heads.

6. Boilers of the horizontal fire tube type shall be set so that when the water is at the lowest reading in the water gauge glass, there shall be at least 3 in. of water over the highest point of the tubes, flues, or crown sheets.

7. Boilers of locomotives shall have at least one water glass provided with top and bottom shutoff cocks and lamp, and two gauge cocks for boilers 36 in. in diameter and under, and three gauge cocks for boilers over 36 in. in diameter.

8. The lowest gauge cock and the lowest reading of water glass shall not be less than 2 in. above the highest point of crown sheet on boilers 36 in. in diameter and under, nor less than 3 in. for boilers

over 36 in. in diameter. These are minimum dimensions, and on larger locomotives and those operating on steep grades, the height should be increased, if necessary, to compensate for change of water level on descending grades.

9. The bottom mounting for water glass and for water column if used must extend not less than 1–1/2 in. inside the boiler and beyond any obstacle immediately above it, and the passage therein must be straight and horizontal.

10. Tubular water glasses must be equipped with a protecting shield.

11. All connections on the gauge glass shall be not less than 1/2 in. pipe size. Each water gauge glass shall be fitted with a drain cock or valve having an unrestricted drain opening of not less than 1/4 in. diameter to facilitate cleaning. When the boiler operating pressure exceeds 100 psig, the glass shall be furnished with a connection to install a valved drain to the ash pit or other safe discharge point.

12. Each water gauge glass shall be equipped with a top and a bottom shutoff valve of such through-flow construction as to prevent stoppage by deposits of sediments. If the lowest valve is more than 7 ft. above the floor or platform from which it is operated, the operating mechanism shall indicate by its position whether the valve is open or closed. The pressure-temperature rating shall be at least equal to that of the lowest set pressure of any safety valve on the boiler drum and the corresponding saturated-steam temperature.

13. Straight-run globe valves shall not be used on such connections.

14. Automatic shutoff valves, if permitted to be used, shall conform to the requirements of Section I of the ASME Code.

I. EBO-9 Water Columns

1. The water column shall be so mounted that it will maintain its correct position relative to the normal waterline under operating conditions.

2. The minimum size of pipes connecting the water column to a boiler shall be 1 in. For pressures of 400 psig or over, lower water column connections to drums shall be provided with shields, sleeves, or other suitable means to reduce the effect of temperature differentials in the shells or heads. Water glass fittings or gauge cocks may be connected directly to the boiler.

3. The steam and water connections to a water column or a water gauge glass shall be such that they are readily accessible for internal inspection and cleaning. Some acceptable methods of meeting this requirement are by providing a cross or fitting with a back outlet at each right-angle turn to permit inspection and cleaning in both directions, or by using pipe bends or fittings of a type which does not leave an internal shoulder or pocket in the pipe connection and with a radius of curvature which will permit the passage of a rotary cleaner. Screwed plug closures using threaded connections as allowed by Section I of the ASME Code are acceptable means of access for this inspection and cleaning. For boilers with all drum safety valves set at or above 400 psig, socket-welded plugs may be used for this purpose in lieu of screwed plugs. The water column shall be fitted with a connection for a drain cock or drain valve to install a pipe of at least 3/4 in. pipe size to the ash pit or other safe point of discharge. If the water connection to the water column has a rising bend or pocket, which cannot be drained by means of the water column drain, an additional drain shall be placed on this connection in order that it may be blown off to clear any sediment from the pipe.

4. The design and material of a water column shall comply with the requirements of Section I of the ASME Code. Water columns made of cast iron in accordance with SA-278 may be used for maximum boiler pressures not exceeding 250 psig. Water columns made of ductile iron in accordance with SA-395 may be used for maximum boiler pressures not exceeding 350 psig. For higher pressures, steel construction shall be used.

5. Shutoff valves shall not be used in the pipe connections between a boiler and a water column or between a boiler and the shutoff valves required for the gauge glass, unless they are either outside-screw-and-yoke or lever-lifting-type gate valves or stopcocks with lever permanently fastened thereto and marked in line with their passage, or of such other through-flow construction as to prevent stoppage by deposits of sediment, and to indicate by the position of the operating mechanisms whether they are in open or closed position; and such valves or cocks shall be locked or sealed open. Where stopcocks are used, they shall be of a type with the plug held in place by a guard or gland.

6. No outlet connections, except for control devices (such as damper regulators and feed water regulators), drains, steam gauges, or apparatus of such form as does not permit the escape of an appreciable amount of steam or water there from, shall be placed on the pipes connecting a water column or gauge glass to a boiler.

J. EB0-10 Gauge Glass Connections

Gauge glasses and gauge cocks that are not connected directly to a shell or drum of the boiler shall be connected by one of the following methods:

1. The water gauge glass or glasses and gauge cocks shall be connected to an intervening water column.

2. When only water gauge glasses are used, they may be mounted away from the shell or drum and the water column omitted, provided the following requirements are met.

a. The top and bottom gauge glass fittings are aligned, supported, and secured so as to maintain the alignment of the gauge glass;

b. The steam and water connections are not less than 1 in. pipe size and each water glass is provided with a valved drain; and

c. The steam and water connections comply with the requirements of the following:

i. the lower edge of the steam connection to a water column or gauge glass in the boiler shall not be below the highest visible water level in the water gauge glass. There shall be no sag or offset in the piping which will permit the accumulation of water; and

ii. the upper edge of the water connection to a water column or gauge glass and the boiler shall not be above the lowest visible water level in the gauge glass. No part of this pipe connection shall be above the point of connection at the water column.

3. Each boiler (except those not requiring water level indicators) shall have three or more gauge cocks located within the visible length of the water glass, except when the boiler has two water glasses located on the same horizontal lines.

4. Boilers not over 36 in. in diameter in which the heating surface does not exceed 100 sq. ft. need have but two gauge cocks.

5. The gauge cock connections shall be not less than 1/2 in. pipe size.

K. EB0-11 Pressure Gauges

Each boiler shall have a pressure gauge so located that it is easily readable. The pressure gauge shall be installed so that it shall at all times indicate the pressure in the boiler. Each steam boiler shall have the pressure gauge connected to the steam space or to the water column or its steam connection. A valve or cock shall be placed in the gauge connection adjacent to the gauge. An additional valve or cock may be located near the boiler, providing it is locked or sealed in the open position. No other shutoff valves shall be located between the gauge and the boiler. The pipe connection shall be of ample size and arranged so that it may be cleared by blowing out. For a steam boiler, the gauge or connection shall contain a siphon or equivalent device, which will develop and maintain a water seal that will prevent steam from entering the gauge tube. Pressure gauge connections shall be suitable for the maximum allowable working pressure and temperature but if the temperature exceeds 406°F, brass or copper pipe or tubing shall not be used. The connections to the boiler, except the siphon (if used), shall not be less than 1/4 in. inside diameter standard pipe size. But where steel or wrought iron pipe or tubing is used they shall not be less than 1/2 in. The minimum size of a siphon (if used) shall be 1/4 in. inside diameter. The dial of the pressure gauge shall be graduated to approximately double the pressure at which the safety valve is set, but in no case to less than 1–1/2 times this pressure. Each forced-flow steam generator with no fixed steam and waterline shall be equipped with pressure gauges or other pressure-measuring devices located as follows:

1. At the boiler or super heater outlet (following the last section which involves absorption of heat).

2. At the boiler or economizer inlet (preceding any section which involves absorption of heat).

3. Upstream of any shutoff valve, which may be used between any two sections of the heat-absorbing surface.

Each high-temperature water boiler shall have a temperature gauge so located and connected that it shall be easily readable. The temperature gauge shall be installed so that it, at all times, indicates the temperature in degrees Fahrenheit of the water in the boiler, at or near the outlet connection.

L. B0-12 Stop Valves

1. Each steam outlet from a boiler (except safety valve and water column connections) shall be fitted with a stop valve located as close as practicable to the boiler.

2. When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its setting.

3. When boilers provided with manholes are connected to a common steam main, the steam piping connected from each boiler shall be fitted with two stop valves having an ample free blow drain between them. The discharge of the drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. The stop valves shall consist preferably of one automatic non-return valve (set next to the boiler) and a second valve of the outside-screw-and-yoke type.

M. EB0-13 Blow Off Piping

1. A blow off as required herein is defined as a pipe connection provided with valves located in the external piping through which the water in the boiler may be blown out under pressure, excepting drains such as are used on water columns, gauge glasses, or piping to feed water regulators, etc., used for the purpose of determining the operating conditions of such equipment. Piping connections used primarily for continuous operation, such as de-concentrators on continuous blow down systems, are not classed as blow offs, but the pipe connections and all fittings up to and including the first shutoff valve shall be equal at least to the pressure requirements for the lowest set pressure of any safety valve on the boiler drum and with the corresponding saturated-steam temperature.

2. A surface blow off shall not exceed 2–1/2 in. pipe size, and the internal pipe and the terminal connection for the external pipe, when used, shall form a continuous passage, but with clearance between their ends and arranged so that the removal of either will not disturb the other. A properly designed steel bushing, similar to or the equivalent of those shown in Fig. PG-59.1 of Section I of the ASME Code, or a flanged connection shall be used.

3. Each boiler, except forced-flow steam generators with no fixed steam and waterline and high-temperature water boilers, shall have a bottom blow off outlet in direct connection with the lowest water space practicable for external piping conforming to PG-58.3.6 of Section I of the ASME Code.

4. All water walls and water screens which do not drain back into the boiler, and all integral economizers, shall be equipped with outlet connections for a blow off or drain line and conform to the requirements of PG-58.3.6 or PG-58.3.7 of the ASME Code.

5. Except as permitted for miniature boilers, the minimum size of pipe and fittings shall be 1 in., and the maximum size shall be 2–1/2 in., except that for boilers with 100 sq. ft. of heating surface or less; the minimum size of pipe and fittings may be 3/4 in.

6. Condensate return connections of the same size or larger than the size herein specified may be used, and the blow off may be connected to them. In such cases, the blow off shall be so located that the connection may be completely drained.

7. A bottom blow off pipe when exposed to direct furnace heat shall be protected by firebrick or other heat-resisting material, which is so arranged that the pipe may be inspected. An opening in the boiler setting for a blow off pipe shall be arranged to provide free expansion and contraction.

N. Repairs and Renewals of Boiler Fittings and Appliances

Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, the work shall comply with the requirements for new installations.

O. EB0-15 Conditions Not Covered By These Requirements

All cases not specifically covered by these requirements shall be treated as new installations or may be referred to the chief boiler administrator for instructions concerning the requirements.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

71–9103.2. Heating Boilers.

A. EHB-1 Standard Boilers

The maximum allowable working pressure of standard boilers shall in no case exceed the pressure indicated by the manufacturer's identification stamped or cast on the boiler or on a plate secured to it.

B. EHB-2 Nonstandard Riveted Boilers

The maximum allowable working pressure on the shell of a nonstandard riveted heating boiler shall be determined in accordance with EB0-3 of 71-9103.1.(C), except that in no case shall the maximum allowable working pressure of a steam-heating boiler exceed 15 psig, or a hot water boiler exceed 160 psig or 250°F temperature.

C. EHB-3 Nonstandard Welded Boilers

The maximum allowable working pressure of a nonstandard steel or wrought iron heating boiler of welded construction shall not exceed 15 psig for steam. For other than steam service, the maximum allowable working pressure shall be calculated in accordance with Section IV of the ASME Code, but in no case shall it exceed 30 psig.

D. EHB-4 Nonstandard Cast-Iron Boilers

1. The maximum allowable working pressure of a nonstandard boiler composed principally of cast iron shall not exceed 15 psig for steam service or 30 psig for hot water service.

2. The maximum allowable working pressure of a nonstandard boiler having cast-iron shell or heads and steel or wrought-iron tubes shall not exceed 15 psig for steam service or 30 psig for hot water service.

E. EHB-5 Potable Water Heaters

A potable water heater shall not be installed or used at pressures exceeding 160 psig or water temperatures exceeding 210°F.

F. EHB-6 Safety Valves

1. Each steam boiler shall have one or more ASME/National Board-stamped and certified safety valves of the spring pop-type adjusted and sealed to discharge at a pressure not to exceed 15 psig. Seals shall be attached in a manner to prevent the valve from being disassembled without breaking the seal. The safety valves shall be arranged so that they cannot be reset to relieve at a higher pressure than the maximum allowable working pressure on the boiler. The manufacturer shall provide a body drain connection below seat level and this drain shall not be plugged during or after field inspection. For valves exceeding 2–1/2 in. pipe size, the drain hole or holes shall be tapped not less than 3/8 in. pipe size. For valves 2–1/2 in. in pipe size and smaller, the drain hole shall not be less than 1/4 in. in diameter.

2. No safety valve for a steam boiler shall be smaller than 1/2 in. No safety valve shall be larger than 4–1/2 in. The inlet opening shall have an inside diameter equal to, or greater than, the seat diameter.

3. The minimum relieving capacity of the valve or valves shall be governed by the capacity marking on the boiler.

4. The minimum valve capacity in pounds per hour shall be the greater of that determined by dividing the maximum BTU output at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000, or shall be determined on the basis of the pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases a greater relieving capacity of valves than the minimum specified by these rules will have to be provided. In every case, the requirements of EHB-6(5) shall be met.

TABLE EHB-6

Minimum Pounds of Steam Per Hour Per Square Foot of Heating Surface

	Fire tube Boilers	**Water tube Boilers**
Boiler Heating Surface:		
Hand-fired	5	6
Stoker-fired	7	8
Oil, gas, or pulverized fuel-fired	8	10
Water wall Heating Surface:		
Hand-fired	8	8
Stoker-fired	10	12
Oil, gas, or pulverized fuel-fired	14	16

a. When a boiler is gas fed and does not have a heat value in excess of 200 BTU per cu. ft., the minimum safety valve or safety relief valve relieving capacity may be based on the value given for hand fed boilers above.

b. The minimum safety valve or safety relief valve relieving capacity for electric boilers shall be 3–1/2 pounds per hour per kilowatt input.

c. For heating surface determination see ASME Code Section IV, Paragraph HG-403.

5. The safety valve capacity for each steam boiler shall be such that with the fuel burning equipment installed and operating at maximum capacity, the pressure cannot rise more than 5 psig above the maximum allowable working pressure.

6. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and be in accordance with EHB-6(5). When additional valves are required, they may be installed on the outlet piping provided there is no intervening valve.

7. If there is any doubt as to the capacity of the safety valve, an accumulation test shall be run (See ASME Code, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

8. No valve of any description shall be placed between the safety valve and the boiler, or on the discharge pipe between the safety valve and the atmosphere. The discharge pipe shall be at least full size and be fitted with an open drain to prevent water lodging in the upper part of the safety valve or in the discharge pipe. When an elbow is placed on the safety valve discharge pipe, it shall be located close to the safety valve outlet or the discharge pipe shall be securely anchored and supported. All safety valve discharges shall be so located or piped as not to endanger persons working in the area.

G. EHB-7 Safety Relief Valve Requirements for Hot Water Heating and Hot Water Supply Boilers

1. Each hot water heating and hot water supply boiler shall have at least one ASME/National Board-stamped and certified safety relief valve set to relieve at or below the maximum allowable working pressure of the boiler. Each hot water supply boiler shall have at least one ASME-National Board-stamped and certified safety relief valve of the automatic reseating type set to relieve at or below maximum allowable working pressure of the boiler. Safety relief valves ASME-National Board-stamped and certified as to capacity shall have pop action when tested by steam. When more than one safety relief valve is used on either a hot water heating or hot water supply boiler, the additional valve or valves shall be ASME National Board-stamped and certified and may be set within a range not to exceed 6 psig above the maximum allowable working pressure of the boiler up to and including 60 psig and 5 percent for those having a maximum allowable working pressure exceeding 60 psig. Safety relief valves shall be spring-loaded. Safety relief valves shall be so arranged that they cannot be reset at a higher pressure than the maximum permitted by this paragraph.

2. No materials liable to fail due to deterioration or vulcanization when subject to saturated steam temperature corresponding to capacity test pressure shall be used for any part.

3. No safety relief valve shall be smaller than 3/4 in. nor larger than 4–1/2 in. standard pipe size, except that boilers having a heat input not greater than 15,000 BTU per hour may be equipped with a safety relief valve of 1/2 in. standard pipe size. The inlet opening shall have an inside diameter approximately equal to, or greater than, the seat diameter. In no case shall the minimum opening through any part of the valve be less than 1/4 in. in diameter or its equivalent area.

4. The required steam-relieving capacity, in pounds per hour, of the pressure relieving device or devices on a boiler shall be the greater of that determined by dividing the maximum output in BTU at the boiler nozzle obtained by the firing of any fuel for which the unit is installed by 1,000 or shall be determined on the basis of pounds of steam generated per hour per square foot of boiler heating surface as given in Table EHB-6. In many cases, a greater relieving capacity of valves will have to be provided than the minimum specified by these rules. In every case, the requirements of EHB-7(6) shall be met.

5. When operating conditions are changed, or additional boiler heating surface is installed, the valve capacity shall be increased, if necessary, to meet the new conditions and shall be in accordance with EHB-7(6). The additional valves required, on account of changed conditions, may be installed on the outlet piping provided there is no intervening valve.

6. Safety relief valve capacity for each boiler shall be such that, with the fuel burning equipment installed and operated at maximum capacity, the pressure cannot rise more than 10 percent above the maximum allowable working pressure. When more than one safety relief valve is used, the over-pressure shall be limited to 10 percent above the set pressure of the highest set valve allowed by EHB-6(1).

7. If there is any doubt as to the capacity of the safety relief valve, an accumulation test shall be run (See ASME Code, Section VI, Recommended Rules for Care and Operation of Heating Boilers).

8. No valve of any description shall be placed between the safety relief valve and the boiler, or on the discharge pipe between the safety relief valve and the atmosphere. The discharge pipe shall be not less than the diameter of the safety relief valve outlet and fitted with an open drain to prevent water lodging in the upper part of the safety relief valve or in the discharge pipe. When an elbow is placed on the safety relief valve discharge pipe, it shall be located close to the safety relief valve outlet, or the discharge pipe shall be securely anchored and supported. All safety relief valve discharges shall be so located or piped as not to endanger persons working in the area.

H. EHB-8 Steam Gauges

1. Each steam boiler shall have a steam gauge or a compound steam gauge connected to its steam space or to its water column or to its steam connection. The gauge or connection shall contain a siphon or equivalent device which will develop and maintain a water seal that will prevent steam from entering the gauge tube. The connection shall be so arranged that the gauge cannot be shut off from the boiler except by a cock placed in the pipe at the gauge and provided with a tee or lever handle arranged to be parallel to the pipe in which it is located when the cock is open. The connections to the boiler shall be not less than 1/4 in. standard pipe size, but where steel or wrought-iron pipe or tubing is used, they shall be not less than 1/2 in. standard pipe size. The minimum size of a siphon, if used, shall be 1/4 in. inside diameter. Ferrous and nonferrous tubing having inside diameters at least equal to that of standard pipe sizes listed above may be substituted for pipe.

2. The scale on the dial of a steam boiler gauge shall be graduated to not less than 30 psig nor more than 60 psig. The travel of the pointer from 0 to 30 psig pressure shall be at least 3 in.

I. EHB-9 Pressure or Altitude Gauges and Thermometers

1. Each hot water boiler shall have a pressure or altitude gauge connected to it or to its flow connection in such a manner that it cannot be shut off from the boiler except by a cock with tee or lever handle, placed on the pipe near the gauge. The handle of the cock shall be parallel to the pipe in which it is located when the cock is open.

2. The scale on the dial of the pressure or altitude gauge shall be graduated approximately to not less than 1–1/2 nor more than three times the pressure at which the safety relief valve is set.

3. Piping or tubing for pressure or altitude-gauge connections shall be of nonferrous metal when smaller than 1 in. pipe size.

4. Each hot water boiler shall have a thermometer so located and connected that it shall be easily readable when observing the water pressure or altitude. The thermometer shall be so located that it shall at all times indicate the temperature in degrees Fahrenheit of the water in the boiler at or near the outlet.

J. EHB-10 Water Gauge Glasses

1. Each steam boiler shall have one or more water gauge glasses attached to the water column or boiler by means of valved fittings not less than 1/2 in. pipe size, with the lower fitting provided with a drain valve of a type having an unrestricted drain opening not less than 1/4 in. in diameter to facilitate cleaning. Gauge glass replacement shall be possible under pressure. Water glass fittings may be attached directly to a boiler.

2. Boilers having an internal vertical height of less than 10 in. may be equipped with a water level indicator of the glass bull's-eye type provided the indicator is of sufficient size to show the water at both normal operating and low-water cutoff levels.

3. The lowest visible part of the water gauge glass shall be at least 1 in. above the lowest permissible water level recommended by the boiler manufacturer. With the boiler operating at this lowest permissible water level, there shall be no danger of overheating any part of the boiler.

4. Each boiler shall be provided at the time of manufacture with a permanent marker indicating the lowest permissible water level. The marker shall be stamped, etched, or cast in metal; or it shall be a metallic plate attached by rivets, screws, or welding; or it shall consist of material with documented tests showing its suitability as a permanent marking for the application. This marker shall be visible at all times. Where the boiler is shipped with a jacket, this marker may be located on the jacket.

5. In electric boilers of the submerged electrode type, the water gauge glass shall be so located to indicate the water levels both at startup and under maximum steam load conditions as established by the manufacturer.

6. In electric boilers of the resistance heating element type, the lowest visible part of the water gauge glass shall not be below the top of the electric resistance-heating element. Each boiler of this type shall also be equipped with an automatic low-water electrical power cutoff so located as to automatically cut off the power supply before the surface of the water falls below the top of the electrical resistance heating elements.

7. Tubular water glasses on electric boilers having a normal water content not exceeding 100 gal. shall be equipped with a protective shield.

K. EHB-11 Stop Valves

1. When a stop valve is used in the supply pipe connection of a single steam boiler, there shall be one used in the return pipe connection.

2. Stop valves in single hot water heating boilers shall be located at an accessible point in the supply and return pipe connections, as near the boiler nozzle as is convenient and practicable, to permit draining the boiler without emptying the system.

3. When the boiler is located above the system and can be drained without draining the system, stop valves may be eliminated.

4. A stop valve shall be used in each supply and return pipe connection of two or more boilers connected to a common system.

5. All valves or cocks shall conform to the applicable portions of HF-203 of Section IV of the ASME Code and may be ferrous or nonferrous.

6. The minimum pressure rating of all valves or cocks shall be at least equal to the pressure stamped upon the boiler, and the temperature rating of such valves or cocks, including all internal components, shall be not less than 250°F.

7. Valves or cocks shall be flanged, threaded or have ends suitable for welding or brazing.

8. All valves or cocks with stems or spindles shall have adjustable pressure-type packing glands and, in addition, all plug-type cocks shall be equipped with a guard or gland. The plug or other operating mechanism shall be distinctly marked in line with the passage to indicate whether it is opened or closed.

9. All valves or cocks shall have tight closure when under boiler pressure test.

10. When stop valves are used, tags of metal or other durable material fastened to them shall properly designate them substantially.

L. EHB-12 Feed Water Connections

1. Feed water, makeup water, or water treatment shall be introduced into a boiler through the return piping system. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent connection shall not discharge directly against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment shall not be introduced through openings or connections provided for inspection or cleaning, safety valve, safety relief valve, blow off, water column, water gauge glass, pressure gauge, or temperature gauge.

2. The makeup water pipe shall be provided with a check valve near the boiler and a stop valve or cock between the check valve and the boiler or between the check valve and the return pipe system.

M. EHB-13 Water Column and Water Level Control Pipes

1. The minimum size of ferrous or nonferrous pipes connecting a water column to a steam boiler shall be 1 in. No outlet connections, except for damper regulator, feed water regulator, steam gauges,

or apparatus which does not permit the escape of any steam or water except for manually operated blow downs, shall be attached to a water column or the piping connecting a water column to a boiler (see HG-705 of Section IV of the ASME Code for introduction of feed water into a boiler). If the water column, gauge glass, low-water fuel cutoff, or other water level control device is connected to the boiler by pipe and fittings, no shutoff valves of any type shall be placed in such pipe, and a cross or equivalent fitting to which a drain valve and piping may be attached shall be placed in the water piping connection at every right-angle turn to facilitate cleaning. The water column drainpipe and valve shall be not less than 3/4 in. pipe size.

2. The steam connections to the water column of a horizontal fire tube wrought-iron boiler shall be taken from the top of the shell or the upper part of the head, and the water connection shall be taken from a point not above the centerline of the shell. For a cast-iron boiler, the steam connection to the water column shall be taken from the top of an end section or the top of the steam header, and the water connection shall be made on an end section not less than 6 in. below the bottom connection to the water gauge glass.

N. EHB-14 Return Pump

Each boiler equipped with a condensate return pump shall be provided with a water level control arranged to automatically maintain the water level in the boiler within the range of the gauge glass.

O. EHB-15 Repairs and Renewals of Fittings and Appliances

Whenever repairs are made to fittings or appliances, or it becomes necessary to replace them, the repairs must comply with Section IV of the ASME Code for new construction.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

SUBARTICLE 4
GENERAL REQUIREMENTS

71–9104. General Requirements.

A. GR-1 Inspection of Boilers

All boilers not exempted by the Act or by rules and regulations promulgated under the Act and which are subject to regular inspections shall be prepared for such inspections as required in GR-2.

B. GR-2 Preparation for Inspection

The owner or user shall prepare each boiler for inspection, and shall prepare for and apply a hydrostatic or pressure test, whenever necessary, on the date arranged by the inspector which shall not be less than seven (7) days after the date of notification.

1. Boilers - the owner or user shall prepare a boiler for internal inspection in the following manner:

a. Water shall be drawn off and the boiler washed thoroughly;

b. Manhole and hand hole plates, washout plugs, and inspection plugs in water column connections shall be removed as required by the inspector. The furnace and combustion chambers shall be cooled and thoroughly cleaned;

c. All grates of internally fired boilers shall be removed if required by the inspector;

d. Insulation or brickwork shall be removed as required by the inspector in order to determine the condition of the boiler, headers, furnace, supports, or other parts;

e. The pressure gauge shall be removed for testing as required by the inspector;

f. Any leakage of steam or hot water into the boiler shall be prevented by disconnecting the pipe or valve at the most convenient point or any appropriate means approved by the inspector; and

g. Before opening the manhole or hand hole covers and entering any parts of the steam-generating unit connected to a common header with other boilers, the non return and steam stop valves must be closed, tagged, and padlocked, and drain valves or cocks between the two valves opened. The feed valves must be closed, tagged, and padlocked, and drain valves or cocks located between the two valves opened. After draining the boiler, the blow off valves shall be closed, tagged, and padlocked. Blow off lines, where practicable, shall be disconnected between pressure parts and valves. All drains and vent lines shall be opened.

C. GR-3 Boilers Improperly Prepared for Inspection

If a boiler has not been properly prepared for an internal inspection, or if the owner or user fails to comply with the requirements for a pressure test as set forth in these rules, the inspector may decline to make the inspection or test.

D. GR-4 Removal of Covering to Permit Inspection

If, upon an external inspection, there is evidence of a leak or crack, sufficient covering of the boiler shall be removed to permit the inspector to satisfactorily determine the safety of the boiler.

E. GR-5 Lap Seam Crack

The shell or drum of a boiler (in which a lap seam crack is discovered along a longitudinal riveted joint) shall be immediately discontinued from use. Patching is prohibited. (Lap seam crack refers to a crack found in lap seams extending parallel to the longitudinal joint, and located either between or adjacent to rivet holes.)

F. GR-6 Pressure Test

1. A pressure test, when applied to boilers, need not exceed the maximum allowable working pressure or the setting of the lowest set safety valves. The pressure shall be under proper control so that in no case shall the required test pressure be exceeded. During a pressure test the safety valve or valves shall be removed or each valve disk shall be held to its seat by means of a testing clamp and not by screwing down the compression screw upon the spring. A plug device designed for this purpose may be used.

2. It is suggested that the minimum metal temperatures during a pressure test shall be not less than 70°F, and that the maximum metal temperature during inspection shall not exceed 120°F.

3. When a pressure test is applied to determine tightness, the pressure shall be equal to the normal operating pressure but need not exceed the release pressure of the safety valve having the lowest release setting.

4. When the contents of the vessel prohibit contamination by any other medium or when a water pressure test is not possible, other testing media may be used providing the precautionary requirements of the applicable section of the ASME Code are followed. In such cases, there shall be agreement between the owner and the inspector.

G. GR-7 Automatic Low-Water Fuel Cutoff and/or Water Feeding Device

1. Each automatically fired steam or vapor system boiler shall be equipped with an automatic low-water fuel cutoff so located as to automatically cut off the fuel supply when the surface of the water falls to the lowest safe waterline. If a water-feeding device is installed, it shall be so constructed that the water inlet valve cannot feed water into the boiler through the float chamber and so located as to supply requisite feed water. The lowest safe waterline should not be lower than the lowest visible part of the water glass.

2. Hot water heating boilers shall be equipped with a Low Water Fuel Cutoff with a manual reset function.

3. Such fuel or feed water control devices may be attached directly to a boiler or for low pressure boilers, to the tapped openings provided for attaching a water glass directly to a boiler, provided that such connections from the boiler are nonferrous tees or Ys not less than 1/2 in. pipe size between the boiler and the water glass, so that the water glass is attached directly and as close as possible to the boiler; the straightway tapping of the Y or tee to take the water glass fittings, the side outlet of the Y or tee to take the fuel cutoff or water-feeding device. The ends of all nipples shall be reamed to full size diameter.

4. Designs embodying a float and float bowl shall have a vertical straightaway valve drain pipe at the lowest point in the water equalizing pipe connections by which the bowl and the equalizing pipe can be flushed and the device tested.

H. GR-8 Pressure Reducing Valves

1. Where pressure-reducing valves are used, one or more safety or safety relief valves shall be provided on the low-pressure side of the reducing valve when the piping or equipment on the low-pressure side does not meet the requirements for the full initial pressure. The safety or safety relief valves shall be located adjoining or as close as possible to the reducing valve. Proper protection shall

be provided to prevent injury or damage caused by the escaping fluid from the discharge of safety or safety relief valves if vented to the atmosphere. The combined discharge capacity of the safety or safety relief valves shall be such that the pressure rating of the lower pressure piping or equipment shall not be exceeded in case the reducing valve fails in the open position.

2. The use of hand-controlled bypasses around reducing valves is permissible. If a bypass is used around the reduction valve, the safety valve required on the low pressure side shall be of sufficient capacity to relieve all the fluid that can pass through the bypass without over-pressuring the low-pressure side.

3. A pressure gauge shall be installed on the low-pressure side of a reducing valve.

I. GR-9 Boiler Blow Off Equipment

1. The blow down from a boiler or boilers that enters a sanitary sewer system or blow down, which is considered a hazard to life or property, shall pass through some form of blow off equipment that will reduce pressure and temperature as required hereinafter.

2. The temperature of the water leaving the blow off equipment shall not exceed 140°F.

3. The pressure of the blow down leaving any type of blow off equipment shall not exceed 5 psig.

4. All blow off equipment shall be fitted with openings to facilitate cleaning and inspection.

5. Blow off equipment shall conform to the provisions set forth in the recommended rules for Sizing Blow Off Vessels, 2004 Edition.

J. GR-10 Location of Discharge Piping Outlets

The discharge of safety valves, blow off pipes, and other outlets shall be located and supported as to prevent injury to personnel.

K. GR-11 Supports

Each boiler shall be supported by masonry or structural supports of sufficient strength and rigidity to safely support the boiler and its contents. There shall be no excessive vibration in either the boiler or its connecting piping.

L. GR-12 Boiler Door Latches

1. A water tube boiler shall have the firing doors of the inward opening type, unless such doors are provided with substantial and effective latching or fastening devices or otherwise so constructed as to prevent them, when closed, from being blown open by pressure on the furnace side.

2. These latches or fastenings shall be of the positive self-locking type. Friction contacts, latches, or bolts actuated by springs shall not be used. The foregoing requirements for latches or fastenings shall not apply to coal openings of downdraft or similar furnaces.

3. All other doors, except explosion doors, not used in the firing of the boiler, may be provided with bolts or fastenings in lieu of self-locking latching devices.

4. Explosion doors, if used and if located in the setting walls within 7 ft. of the firing floor or operating platform, shall be provided with substantial deflectors to divert the blast.

M. GR-13 Clearance

When boilers are replaced or new boilers are installed in either existing or new buildings, a minimum height of at least 3 ft. shall be provided between the top of the boiler proper and the ceiling, and at least 3 ft. between all sides of the boiler and adjacent walls or other structures. Boilers and pressure vessels having manholes shall have 5 ft. clearance from the manhole opening and any wall, ceiling or piping that will prevent a person from entering the boiler or vessel. All boilers shall be so located that adequate space will be provided for the proper operation of the boilers and their appurtenances, for the inspection of all surfaces, tubes, water walls, economizers, piping, valves and other equipment, and for their necessary maintenance and repair and replacement of tubes.

N. GR-14 Ladders and Runways

When necessary for safety, there shall be a steel runway or platform of standard construction installed across the tops of adjacent boilers or at some other convenient level for the purpose of affording safe access. All walkways shall have at least two means of exit, each to be remotely located from the other.

O. GR-15 Exit from Boiler Room

All boiler rooms exceeding a 500 sq. ft. floor area and containing one or more boilers having a fuel-burning capacity of 1,000,000 BTU, or equivalent electrical heat input, shall have at least two means of exit. Each exit shall be remotely located from the other. Each elevation in such boiler room shall have two means of exit, each remotely located from the other.

P. GR-16 Suggestions for Operations

It is suggested that the Recommended Rules for Care of Power Boilers, Section VII, and the Recommended Rules for Care and Operation of Heating Boilers, Section VI, of the ASME Code be used as a guide for proper and safe operating practices.

Q. GR-17 Air and Ventilation Requirements - Combustion Air Supply and Ventilation of Boiler Room

A permanent source of outside air shall be provided for each boiler room to permit satisfactory combustion of the fuel as well as proper ventilation of the boiler room under normal operating conditions.

1. The total requirements of all burners for all fired pressure vessels and air compressors or other air-consuming equipment in the boiler room must be used to determine the net louvered area in square feet:

INPUT BTU/HOUR	REQUIRED AIR CU/FT/MIN.	MIN. NET LOUVERED AREA, SQ. FT.
500,000	125	1.0
1,000,000	250	1.0
2,000,000	500	1.6
3,000,000	750	2.5
4,000,000	1,000	3.3
5,000,000	1,250	4.1
6,000,000	1,500	5.0
7,000,000	1,750	5.8
8,000,000	2,000	6.6
9,000,000	2,250	7.5
10,000,000	2,500	8.3

2. When mechanical ventilation is in lieu of paragraph (A), the supply of combustion and ventilation air to the boiler room and the firing device will not operate with the fan off. The velocity of the air through the ventilating fan shall not exceed 500 feet per minute and the total air delivered shall be equal to or greater than shown in paragraph (1) above.

R. GR-18 Gas Burners

For installations, which are gas fired, the burners used shall conform to the applicable requirements of nationally recognized standards.

S. GR-19 Conditions Not Covered by These Rules and Regulations

For any conditions not covered by these requirements, the applicable provisions of the ASME Code, the National Board Inspection Code, or the American Petroleum Institute Pressure Vessel Inspection Code shall apply.

HISTORY: Added by State Register Volume 30, Issue No. 6, eff June 23, 2006.

ARTICLE 10
REGISTRATION OF IMMIGRATION ASSISTANCE SERVICES AND ILLEGAL ALIENS AND PRIVATE EMPLOYMENT

(Statutory Authority: 1976 Code Sections 40–83–30(L), 41–3–40 and 41–8–120)

SUBARTICLE 1
REGISTRATION OF IMMIGRATION ASSISTANCE SERVICES

71–10000. Purpose.

The purpose of this subarticle is to carry out the Department's responsibility to promulgate regulations for the implementation, administration, and enforcement of the Registration of Immigration Assistance Services Act, as required by Section 40–83–30 of the 1976 Code.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010.

71–10000.1. Change of Address.

Licensees shall notify the Department in writing of each change of address or change of business trade name within ten days of such change. The change of address notification must include a change of address fee.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010.

71–10000.2. Display of License.

All licensees shall prominently display their licenses at their business address.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010.

71–10000.3. Advertising.

Misleading and untruthful advertising by licensees is prohibited. All advertisements shall contain the legal name and license number of the Immigration Assistance Service. Every advertisement shall clearly indicate that it is the advertisement of a licensed Immigration Assistance Service.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010.

71–10000.4. False or Misleading Information.

A. An applicant who provides false or misleading answers on any document submitted to the Department will be denied a license.

B. A licensee who falsifies any document or assists in the falsification of an application or document of another in the course of providing immigration assistance services will be subject to disciplinary action, suspension, or revocation.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010.

71–10000.5. Licensure.

A. No action will be taken on any application for licensure until all forms are complete and the fee of $100.00 has been paid.

B. Applications for renewal of licenses shall be filed with the Department biennially and accompanied by a fee of $100.00.

C. Any license that has not been renewed in a timely fashion shall be lapsed. Any licensee in lapsed status must make application for a new license.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010.

71–10000.6. Administrative Review of Any Revocation, Civil Penalty, or Other Disciplinary Action Against a License.

A. Request for Informal Conference. Within five (5) days of receipt of a notice of revocation, civil penalty, or other disciplinary action, a licensee may request an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notification of failure to correct violation. The settlement of any issue at such conference shall be subject to these rules and regulations of procedure. Any party may be represented by legal counsel. No such conference or request for conference shall operate as a stay of the thirty (30) day period for filing a request for a contested case hearing with the Administrative Law Court, and no such conference or request for conference will be held or accepted subsequent to receipt of a request for a contested case hearing as defined in the regulations of the Administrative Law Court.

B. Conduct of Informal Conference. The Program Administrator or his designee will conduct the informal conference.

C. Location. Informal conferences may be conducted by the Program Administrator or his designee at the offices of the Department of Labor, Licensing and Regulation or by telephone.

D. Time. Informal conferences will be conducted as soon as possible after such request is made.

E. Decision. To the extent possible, a decision of the Program Administrator or his designee will be made at the close of the informal conference and communicated promptly to the licensee.

F. Any licensee to whom a notice of revocation, civil penalty, or other disciplinary action has been issued may serve a request for a contested case hearing concerning such revocation, civil penalty, or other disciplinary action, or any combination thereof in accordance with the rules of procedure of the Administrative Law Court.

G. Where the licensee fails to file a request for a contested case hearing within thirty (30) days of receipt of the notice of revocation, civil penalty, or other disciplinary action, the notice shall be deemed a final order of the Department not subject to administrative review unless good cause is shown for such failure. Where the request for a contested case hearing is made later than the period specified, the Department may nevertheless waive any objection to the late protest, if there was good cause for such delay and that the delay was not excessive.

HISTORY: Added by Register Volume 34, Issue No. 3, eff March 26, 2010.

SUBARTICLE 2
ILLEGAL ALIENS AND PRIVATE EMPLOYMENT

71–10001. Administrative Review of Any Revocation, Civil Penalty, or Other Disciplinary Action Against the Employment License of a Private Employer.

A. Request for Informal Conference. Upon receipt of a notice of revocation, civil penalty, or other disciplinary action, a private employer may request an informal conference for the purpose of discussing any issues raised by an inspection, citation, on notice of proposed sanction. The settlement of any issue at such conference shall be subject to this procedure. Any party may be represented by legal counsel. No such conference or request for conference shall operate as a stay of the thirty (30) day period for filing a request for a contested case hearing with the Administrative Law Court, and no such conference or request for conference will be held or accepted subsequent to receipt of a request for a contested case hearing as defined in the regulations of the Administrative Law Court.

B. Conduct of Informal Conference. The Director of the Department of Labor, Licensing and Regulation (LLR) shall designate an informal conference officer to review all issues raised by an inspection, audit, citation, or notice of proposed sanction.

C. Location. Informal conferences may be conducted at the offices of the Department of Labor, Licensing and Regulation or by telephone or video conference.

D. Time. Informal conferences will be conducted as soon as possible after such request is made.

E. Decision. To the extent possible a decision of the informal conference officer will be made at the close of the informal conference and communicated promptly to the private employer.

F. Any employer to whom a notice of revocation, civil penalty, or other disciplinary action has been issued may serve a request for a contested case hearing concerning such revocation, civil penalty, or other disciplinary action, or any combination thereof in accordance with the rules of procedure of the Administrative Law Court.

G. Where the private employer fails to file a request for a contested case hearing within thirty (30) days of receipt of the notice of revocation, civil penalty, or other disciplinary action, the notice shall be deemed a final order of the Department not subject to administrative review unless good cause is shown for such failure. Where the request for a contested case hearing is made later than the period specified, the Department may nevertheless waive any objection to the late protest, if there was good cause for such delay and the delay was not excessive.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010.

71–10002. Audit Program.

At the time of an inspection, the employer must provide access to:

1. original or photocopied records of employment verification; or

2. access to electronic storage of records of employment verification, including associated audit trails that show who has accessed a computer system and the actions performed within or on the computer system during a given period of time.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010. Amended by SCSR 42–5 Doc. No. 4770, eff May 25, 2018.

71–10003. Records Retention.

Employers must retain records of verification of immigration status for all employees for three (3) years after the date they hire an employee. These records forms can be retained in paper, microfilm, microfiche, or electronically.

HISTORY: Added by State Register Volume 34, Issue No. 3, eff March 26, 2010.