**A** **BILL**

TO AMEND SECTIONS 1‑3‑240, AS AMENDED; SECTION 1‑5‑40; SECTIONS 44‑1‑20, 44‑1‑30, AND 44‑1‑40; SECTION 44‑1‑50, AS AMENDED; SECTIONS 44‑1‑60, 44‑1‑70, 44‑1‑80, AS AMENDED, 44‑1‑90, 44‑1‑130, AS AMENDED, 44‑1‑165, 44‑1‑280, 44‑2‑130, 44‑7‑130, AS AMENDED, 44‑7‑150, AS AMENDED, 44‑7‑180, AS AMENDED, 44‑7‑190, AS AMENDED, 44‑7‑200, AS AMENDED, 44‑7‑320, AS AMENDED, 44‑7‑370, 44‑29‑150, 44‑29‑210, 44‑53‑280, 44‑53‑290, 44‑53‑310, 44‑53‑320, 44‑53‑740, 44‑55‑20, 44‑55‑30, 44‑55‑40, 44‑55‑45, 44‑55‑50, 44‑55‑60, 44‑55‑70, 44‑55‑2320, 44‑55‑2360, 44‑56‑20, 44‑56‑30, 44‑56‑130; 44‑56‑440, AND 44‑61‑20; SECTIONS 44‑61‑30, 44‑61‑40, 44‑61‑50, 44‑61‑60, 44‑61‑70, 44‑61‑80, AND 44‑61‑130, ALL AS AMENDED; SECTIONS 44‑63‑110, 44‑67‑30, 44‑67‑40, 44‑67‑120, 44‑69‑20, 44‑69‑30, 44‑69‑50, 44‑71‑20, 44‑75‑20, 44‑75‑30, 44‑75‑40, 44‑89‑30, 44‑93‑20, 44‑93‑150, 44‑96‑100, 44‑96‑450, 48‑2‑340, 48‑39‑10, 48‑39‑280, 48‑43‑10, 48‑43‑30, 48‑43‑50, 48‑43‑60, 48‑43‑510, 49‑21‑10, 49‑21‑40, AND 49‑21‑80, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE DUTIES AND RESPONSIBILITIES OF THE BOARD OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO TRANSFER THESE DUTIES AND RESPONSIBILITIES FROM THE BOARD TO THE DEPARTMENT OR THE DIRECTOR OF THE DEPARTMENT.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 1‑3‑240(C)(1)(i) of the 1976 Code, as last amended by Act 137 of 2005, is further amended to read:

“(i) ~~Board of the Department of Health and Environmental Control, excepting the chairman~~ Reserved;”

SECTION 2. Section 1‑5‑40(A)(43) of the 1976 Code is amended to read:

“(43) ~~DHEC~~

~~(a)~~ ~~Board of Health and Environmental Control~~

~~(b)~~ ~~Office of Ocean and Coastal Resource Management Board~~ Reserved”

SECTION 3. Section 44‑1‑20 of the 1976 Code is amended to read:

“Section 44‑1‑20. There is hereby created the South Carolina Department of Health and Environmental Control which ~~shall~~ must be ~~administered under the supervision of~~ supported by the South Carolina Advisory Board of Health and Environmental Control. The advisory board shall consist of seven members, one from each congressional district, and one from the State at large to be appointed by the Governor, upon the advice and consent of the Senate. The member who is appointed at large shall serve as the chairman of the advisory board. The Governor may remove the chairman of the advisory board pursuant to Section 1‑3‑240(B); however, the Governor may only remove the other advisory board members pursuant to Section 1‑3‑240(C). The terms of the members shall be for four years and until their successors are appointed and qualify, except that of the original appointees, three shall be appointed for two years and four shall be appointed for four years. All vacancies shall be filled in the manner of the original appointment for the unexpired portion of the term only. In making these appointments, race, gender, and other demographic factors should be considered to ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed.”

SECTION 4. Section 44‑1‑30 of the 1976 Code is amended to read:

“Section 44‑1‑30. The advisory board shall meet at least quarterly and the members shall receive such compensation for their services as is provided by law for members of boards and commissions.”

SECTION 5. Section 44‑1‑40 of the 1976 Code is amended to read:

“Section 44‑1‑40. The ~~board~~ Governor shall ~~select~~ appoint a director for the department, with the advice and consent of the Senate, who shall serve a four‑year term and who shall have such authority and perform such duties as may be directed by the ~~board~~ Governor. The salary of the director shall be fixed by the ~~board, upon approval of the State Budget and Control Board. For any vacancy occurring in the office of director on or after February 1, 1995, the board, after consultation with and approval by the Governor, must submit the name of its appointee to the Senate for the Senate’s advice and consent. On or after February 1, 1995, the board may remove a director only after consultation with and approval by the~~ Governor.”

SECTION 6. Section 44‑1‑50 of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“Section 44‑1‑50. The ~~board~~ department may conduct such administrative reviews as ~~may be~~ required by law, as considered necessary ~~by the board~~ to render a final agency determination in matters involving the issuance, denial, renewal or revocation of permits, licenses, or other actions of the department which may give rise to a contested case pursuant to Chapter 23 ~~of~~, Title 1.

The ~~board~~ director shall provide for the administrative organization of the department and shall consolidate and merge existing duties, functions, and officers of the former agencies as may be necessary for economic and efficient administration. Provided, however, that the ~~board~~ director, in addition to the advisory board established pursuant to Section 44‑1‑20, may appoint such other advisory boards as it considers necessary to carry out the functions of Sections 44‑1‑10 to 44‑1‑70, and there shall be provided a compensation for their services as provided by the law for members of boards and commissions.”

SECTION 7. Section 44‑1‑60(F) of the 1976 Code, as added by Act 387 of 2006, is amended to read:

“(F) No later than sixty days after the date of receipt of a request for final review, a final review conference must be conducted by the ~~board, its~~ director or his designee~~, or a committee of three members of the board appointed by the chair~~. If a final review conference is not conducted within sixty days, the department decision becomes the final agency decision, and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act, within thirty days after the deadline for the final review conference. The department shall set the place, date, and time for the conference; give the applicant and affected persons at least ten days’ written notice of the conference; and advise the applicant that evidence may be presented at the conference. The final review conference must be held as follows:

(1) Final review conferences are open to the public; however, the officers conducting the conference may meet in closed session to deliberate on the evidence presented at the conference. The burden of proof in a conference is upon the moving party. During the course of the final review conference, the department must explain the department decision and the materials relied upon in the administrative record to support the department decision. The applicant or affected party shall state the reasons for protesting the department decision and may provide evidence to support amending, modifying, or rescinding the department decision. The department may rebut information and arguments presented by the applicant or affected party and the applicant or affected party may rebut information and arguments presented by the department. Any final review conference officer may request additional information and may question the applicant or affected party, the department, and anyone else providing information at the conference.

(2) After the administrative review, the ~~board, its~~ director or his designee~~, or a committee of three members of the board appointed by the chair~~ shall issue a written final agency decision based upon the evidence presented. The decision may be announced orally at the conclusion of the administrative review or it may be reserved for consideration. The written decision must explain the bases for the decision and inform the parties of their right to request a contested case hearing before the Administrative Law Court. In either event, the written decision must be mailed to the parties no later than thirty days after the date of the administrative review. Within thirty days after the receipt of the decision an applicant, permittee, licensee, or affected person desiring to contest the final agency decision may request a contested case hearing before the Administrative Law Court, in accordance with the Administrative Procedures Act. The court shall give consideration to the provisions of Section 1‑23‑330 regarding the department’s specialized knowledge.

(3) Prior to the initiation of the final conference, an applicant, permittee, licensee, or affected person must be notified of their right to request a transcript of the proceedings of the final conference. If a transcript is requested, the applicant, permittee, licensee, or affected person making the request must be responsible for all costs.”

SECTION 8. Section 44‑1‑70 of the 1976 Code is amended to read:

“Section 44‑1‑70. All ~~rules and~~ regulations promulgated by the ~~Board shall be null and void unless~~ department must be approved by ~~a concurrent resolution of~~ the General Assembly ~~at the session of the General Assembly following their promulgation~~ in accordance with the Administrative Procedures Act.”

SECTION 9. Section 44‑1‑80 of the 1976 Code, as last amended by Act 339 of 2002, is further amended to read:

“Section 44‑1‑80. (A) The ~~Board~~ Department of Health and Environmental Control ~~or its designated agents~~ must investigate the reported ~~causes~~ cause of a communicable or epidemic disease and must enforce or prescribe ~~these~~ preventive measures as ~~may be~~ needed to suppress or prevent the spread of these diseases by proper quarantine or other measures of prevention, as ~~may be~~ necessary to protect the citizens of ~~the~~ this State. The ~~Board of Health and Environmental Control or its designated agents~~ department shall declare, when the facts justify it, any place as infected and, in case of hydrophobia or other diseases transmitted from animals to man, ~~must~~ shall declare ~~such~~the animal or animals quarantined, and ~~must~~ shall place ~~all such~~ restrictions upon ingress and egress of persons or animals ~~therefrom as may be, in its judgment,~~ necessary to prevent the spread of disease from the infected locality.

(B)(1) Whenever the ~~board~~ department learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to cause a public health emergency, as defined in Section 44‑4‑130, it is authorized to notify the appropriate public safety authority, tribal authorities, and federal health and public safety authorities.

(2) The sharing of information on reportable illnesses, health conditions, unusual clusters, or suspicious events between authorized personnel must be restricted to information necessary for the treatment, control, investigation, and prevention of a public health emergency. Restriction of access to this information to those authorized personnel for the protection of public health ensures compliance with all state and federal health information privacy laws.

(3) The ~~board and its agents~~ department must have full access to medical records and nonmedical records when necessary to investigate the causes, character, and means of preventing the spread of a qualifying health event or public health emergency. For purposes of this item, ‘nonmedical records’ mean records of entities, including businesses, health facilities, and pharmacies, which are needed to adequately identify and locate persons believed to have been potentially exposed or known to have been infected with a contagious disease.

(4) An order of the ~~board~~ department given to effectuate the purposes of this subsection is enforceable immediately by the public safety authority.

(5) For purposes of this subsection, the terms qualifying health event, public health emergency, and public safety authority have the same meanings as provided in Section 44‑4‑130.”

SECTION 10. Section 44‑1‑90 of the 1976 Code is amended to read:

“Section 44‑1‑90. The ~~State Board~~ Department of Health and Environmental Control ~~or its designated agents~~, when it is ~~deemed~~ considered necessary by the municipal officers of any town or city or the governing body of any county, may (a) visit cities, towns, villages or localities where disease is prevalent or threatened, (b) investigate and advise with the local authorities or persons as to such measures as may tend to prevent the spread of disease or to remove or abate causes that may tend to cause or intensify disease, (c) advise, when practicable or possible, as to measures of sanitation or hygiene and (d) investigate and advise as to all matters respecting water supply, sewage, drainage, ventilation, heating, lighting or other measures connected with public sanitation or safety.”

SECTION 11. Section 44‑1‑130 of the 1976 Code is amended to read:

“Section 44‑1‑130. The Department of Health and Environmental Control may divide the State into health districts and establish in these districts advisory boards of health which shall consist of representatives from each county in the district. Boards of health now existing in the districts shall have representation on the district advisory board. Counties not having local boards of health shall be represented by individuals appointed by the county legislative delegation. The number of members of a district advisory board shall be determined by the department with due consideration to the population and community needs of the district. District advisory boards of health shall be subject to the supervisory and advisory control of the department. District advisory boards are charged with the duty of advising the district medical director or administrator in all matters of sanitary interest and scientific importance bearing upon the protection of the public health.

The district medical director or administrator shall be secretary of the district advisory board, and the district advisory board shall elect a chairman annually from its membership ~~a chairman~~.”

SECTION 12. Section 44‑1‑165(E) of the 1976 Code, as added by Act 307 of 2006, is amended to read:

“(E) No later than January 1, 2008, the department shall report to the ~~Board of Health and Environmental Control~~ Governor the department’s findings on the implementation of the pilot expedited review program provided for in subsection (C).”

SECTION 13. Section 44‑1‑280 of the 1976 Code is amended to read:

“Section 44‑1‑280. The ~~Board and~~ Department of Health and Environmental Control in establishing priorities and funding for programs and services which impact on children and families during the first years of a child’s life, within the powers and duties granted to it, must support, as appropriate, the South Carolina First Steps to School Readiness initiative, as established in Title 59, Chapter 152, at the state and local levels.”

SECTION 14. Section 44‑2‑130(E)(1) of the 1976 Code is amended to read:

“(1) An owner or operator of an underground storage tank or his agent seeking to qualify for compensation from the Superb Account for site rehabilitation shall submit a written application to the department. The written application must be on a form specified by the department and include certification that site rehabilitation is necessary, the tanks at the site have been registered in compliance with applicable law and regulations, and all registration fees have been paid. The department shall accept certification that the release at the site is in need of rehabilitation if the certification is provided jointly by the owner or operator and a South Carolina registered professional geologist or engineer, and if the certification is supported with geotechnical data which reasonably justifies the claim. Upon final determination the department shall provide written notice to the applicant of its findings including detailed reasons for any denial. Any denial of an application ~~must be~~ is appealable ~~to the Board of Health and Environmental Control~~ in accordance with the Administrative Procedures Act. The department is exempt from this time frame for applications which are received within three months of the close of the grace period allowed in Section 44‑2‑110.”

SECTION 15. Section 44‑7‑130(3) of the 1976 Code is amended to read:

“(3) ~~‘Board’ means the State Board of Health and Environmental Control~~ Reserved.”

SECTION 16. Section 44‑7‑150(3) of the 1976 Code is amended to read:

“(3) adopt in accordance with Article I of the Administrative Procedures Act substantive and procedural regulations considered necessary by the department ~~and approved by the board~~ to carry out the department’s licensure and Certificate of Need duties under this article, including regulations to deal with competing applications;”

SECTION 17. Section 44‑7‑180(A) and (C) of the 1976 Code, as last amended by Act 278 of 2010, is further amended to read:

“(A) There is created a health planning committee comprised of fourteen members. The Governor shall appoint twelve members, which must include at least one member from each congressional district. In addition, each of the following groups must be represented among the Governor’s appointees: health care consumers, health care financiers, including business and insurance, and health care providers, including an administrator of a licensed for‑profit nursing home. The ~~chairman of the board~~ director of the Department of Health and Environmental Control shall appoint one member. The South Carolina Consumer Advocate or the Consumer Advocate’s designee is an ex officio nonvoting member. Members appointed by the Governor are appointed for four‑year terms, and may serve only two consecutive terms. Members of the health planning committee are allowed the usual mileage and subsistence as provided for members of boards, committees, and commissions. The committee shall elect from among its members a chairman, vice chairman, and such other officers as the committee considers necessary to serve a two‑year term in that office.

(C) Upon approval by the health planning committee, the South Carolina Health Plan must be submitted at least once every two years to the ~~board~~ department for final revision and adoption. Once adopted ~~by the board~~, the plan may later be revised through the same planning and approval process. The department shall adopt by regulation a procedure to allow public review and comment, including regional public hearings, before adoption or revision of the plan.”

SECTION 18. Section 44‑7‑190(A) of the 1976 Code, as last amended by Act 278 of 2010, is further amended to read:

“(A) The department shall adopt~~, upon approval of the board,~~ Project Review Criteria which, at a minimum, must provide for the determination of need for health care facilities, beds, services and equipment, including demographic needs, appropriate distribution, and utilization; accessibility to underserved groups; availability of facilities and services without regard to ability to pay; absence of less costly and more effective alternatives; appropriate financial considerations, including method of financing, financial feasibility, and cost containment; consideration of impact on health systems resources; site and building suitability; consideration of quality of care; and relevant special considerations as may be appropriate. The Project Review Criteria must be adopted as a regulation pursuant to the Administrative Procedures Act.”

SECTION 19. Section 44‑7‑200(C) of the 1976 Code, as last amended by Act 278 of 2010, is further amended to read:

“(C)(1) Upon publication of this notice and until a contested case hearing is requested pursuant to Section 44‑1‑60(G):

(~~1~~a) ~~members of the board and~~ persons appointed by the board to hold a final review conference on staff decisions may not communicate directly or indirectly with any person in connection with the application; and

(~~2~~b) no person shall communicate, or cause another to communicate, as to the merits of the application with ~~members of the board and~~ persons appointed by the board to hold a final review conference on staff decisions.

(2) A person who violates this subsection is subject to the penalties provided in Section 1‑23‑360.”

SECTION 20. Section 44‑7‑320(B) of the 1976 Code is amended to read:

“(B) Should the department determine to assess a penalty, deny, suspend, or revoke a license, it shall send to the appropriate person or facility, by certified mail, a notice setting forth the particular reasons for the determination. The determination becomes final thirty days after the mailing of the notice, unless the person or facility, within such thirty‑day period, requests in writing a contested case hearing ~~before the board, or its designee,~~ pursuant to the Administrative Procedures Act. On the basis of the contested case hearing, the determination involved must be affirmed, modified, or set aside. Judicial review may be sought in accordance with the Administrative Procedures Act.”

SECTION 21. Section 44‑7‑370(B) of the 1976 Code is amended to read:

“(B) The Department of Health and Environmental Control shall appoint a Renal Dialysis Advisory Council to advise the department regarding licensing and inspection of renal dialysis centers. The council must be consulted and have the opportunity to review all regulations promulgated by the ~~board~~ department affecting renal dialysis prior to submission of the proposed regulations to the General Assembly.

(1) The council is composed of a minimum of fourteen persons, one member recommended by the Palmetto Chapter of the American Nephrology Nurses Association; one member recommended by the South Carolina Chapter of the National Association of Patients on Hemodialysis and Transplants; three physicians specializing in nephrology recommended by the South Carolina Renal Physicians Association; two administrators of facilities certified for dialysis treatment or kidney transplant services; one member recommended by the South Carolina Kidney Foundation; one member recommended by the South Carolina Hospital Association; one member recommended by the South Carolina Medical Association; one member of the general public; one member representing technicians working in renal dialysis facilities; one member recommended by the Council of Nephrology Social Workers; and one member recommended by the Council of Renal Nutritionists. The directors of dialysis programs at the Medical School of the University of South Carolina and the Medical University of South Carolina, or their designees, are ex officio members of the council.

(2) Members shall serve four‑year terms and until their successors are appointed and qualify. No member of council shall serve more than two consecutive terms. The council shall meet as frequently as ~~the board~~ it considers necessary, but not less than twice each year. Members shall serve without compensation.”

SECTION 22. Section 44‑29‑150 of the 1976 Code is amended to read:

“Section 44‑29‑150. No person will be initially hired to work in any public or private school, kindergarten, nursery or day care center for infants and children until appropriately evaluated for tuberculosis according to guidelines ~~approved~~ adopted by the ~~Board~~ Department of Health and Environmental Control. Re‑evaluation will not be required for employment in consecutive years unless otherwise indicated by such guidelines.”

SECTION 23. Section 44‑29‑210(a) of the 1976 Code is amended to read:

“(a) Whenever the ~~Board of the Department of Health and Environmental Control or the~~ director of the Department of Health and Environmental Control approves in writing a mass immunization project to be administered in any part of this State in cooperation with an official or volunteer medical or health agency, any authorized employee of the agency, any physician who does not receive compensation for his services in the project, and any registered nurse who participates in the project, except as provided in subsection (b), is not liable to any person for illness, reaction, or adverse effect arising from or out of the use of any drug or vaccine administered in the project by the employee, physician, or nurse. ~~Neither the board nor~~ The director may not approve the project unless ~~either~~ he finds that the project conforms to good medical and public health practice.”

SECTION 24. Section 44‑53‑280(C) and (D) of the 1976 Code is amended to read:

“(C) A class 20‑28 registration, as provided for ~~by the board~~ in regulation, expires October first of each year. A registrant who fails to renew by October thirty‑first must be penalized twenty‑five dollars. If failure to renew continues beyond October thirty‑first, the registrant must be notified, by certified mail return receipt requested, sent to the registrant’s last known address, that continued failure to renew will result in the cancellation of the registration. The registration of a registrant who fails to renew by December thirty‑first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(D) All registrations other than class 20‑28, as provided for ~~by the board~~ in regulation, expire on April first of each year. A registrant who fails to renew by April thirtieth must be penalized twenty‑five dollars. If failure to renew continues beyond April thirtieth, the registrant must be notified, by certified mail return receipt requested, sent to the registrant’s last known address, that continued failure to renew will result in cancellation of the registration. The registration of a registrant who fails to renew by June thirtieth is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.”

SECTION 25. Section 44‑53‑290(i) of the 1976 Code is amended to read:

“(i) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The ~~Board~~ department shall register an applicant to dispense but not prescribe narcotic drugs to individuals for maintenance treatment or detoxification treatment, or both,

(1) if the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;

(2) if the ~~Board~~ department determines that the applicant will comply with standards established by the ~~Board~~ department respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in accordance with Section 44‑53‑340 and the rules issued by the ~~Board~~ department on such drugs; and

(3) if the ~~Board~~ department determines that the applicant will comply with standards established by the ~~Board~~ department after consultation with the South Carolina Methadone Council respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.”

SECTION 26. Section 44‑53‑310(a) of the 1976 Code is amended to read:

“(a) An application for a registration or a registration granted pursuant to Section 44‑53‑300 to manufacture, distribute, or dispense a controlled substance, may be denied, suspended, or revoked by the ~~Board~~ department upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to this article;

(2) Has been convicted of a felony or misdemeanor under any State or Federal law relating to any controlled substance;

(3) Has had his Federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(4) Has failed to comply with any standard referred to in Section 44‑53‑290(i).”

SECTION 27. Section 44‑53‑320(b) of the 1976 Code is amended to read:

“(b) The department, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under Section 44‑53‑310, or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. A failure to comply with a standard referred to in Section 44‑53‑290(i) may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. The suspension shall continue in effect until withdrawn by the ~~Board~~ department or dissolved by a court of competent jurisdiction.”

SECTION 28. Section 44‑53‑740 of the 1976 Code is amended to read:

“Section 44‑53‑740. The ~~Board of the~~ Department of Health and Environmental Control shall promulgate regulations necessary to carry out the provisions of this article.”

SECTION 29. Section 44‑55‑20(1) and (7) of the 1976 Code is amended to read:

“(1) ~~‘Board’ means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Safe Drinking Water Act~~ Reserved.

(7) ‘Department’ means the South Carolina Department of Health and Environmental Control, including personnel authorized and empowered to act on behalf of the department ~~or board~~.”

SECTION 30. Section 44‑55‑30 of the 1976 Code is amended to read:

“Section 44‑55‑30. In general, the design and construction of any public water system must be in accord with modern engineering practices for these installations. The ~~board~~ department shall establish regulations, procedures, or standards as may be necessary to protect the health of the public and to ensure proper operation and function of public water systems. These regulations may prescribe minimum design criteria, the requirements for the issuance of construction and operation permits, operation and maintenance standards, and bacteriological, chemical, radiological, and physical standards for public water systems, and other appropriate regulations.”

SECTION 31. Section 44‑55‑40(G) and (O) of the 1976 Code is amended to read:

“(G) The department may authorize variances or exemptions from the regulations issued pursuant to this section under conditions and in such manner as the ~~board~~ department considers necessary and desirable; however, these variances or exemptions must be permitted under conditions and in a manner which is not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the Federal Safe Drinking Water Act.

(O) The ~~board~~ department, to ensure that underground sources of drinking water are not contaminated by improper well construction and operation, may promulgate regulations as developed by the Advisory Committee established pursuant to Section 44‑55‑45, setting standards for the construction, maintenance, operation, and abandonment of any well except for wells where well construction, maintenance, and abandonment are regulated by the Groundwater Use Act of 1969, Sections 49‑5‑10 et seq.; the Oil and Gas Exploration, Drilling, Transportation, and Production Act, Sections 48‑43‑10 et seq.; or the Water Use Reporting and Coordination Act, Section 49‑4‑10 et seq. For these excepted wells, the ~~board~~ department may promulgate regulations. The ~~board~~ department shall further ensure that all wells are constructed in accordance with the standards. The ~~board~~ department shall make available educational training on the standards to well drillers who desire this training.”

SECTION 32. Section 44‑55‑45 of the 1976 Code is amended to read:

“Section 44‑55‑45. An advisory committee to the ~~board~~ department must be appointed for the purpose of advising the ~~board~~ department during development or subsequent amendment of regulatory standards for the construction, maintenance, operation, and abandonment of wells subject to the jurisdiction of the ~~board~~ department . The Advisory Committee is composed of eight members appointed by the ~~board~~ director of the department. Five members must be active well drillers; one member must be a registered professional engineer with experience in well design and construction; one member must be a consulting hydrogeologist with experience in well design and construction; and one member must be engaged in farming and shall represent the public at large. Three ex officio members shall also serve on the Advisory Committee, one of whom must be an employee of the Department of Health and Environmental Control, and appointed by the commissioner; and two of whom must be employees of the South Carolina Department of Natural Resources and appointed by the director.

The term of office of members of the Advisory Committee is for four years and until their successors are appointed and qualify. No member may serve more than two consecutive terms. The initial terms of office must be staggered and any member may be removed for cause after proper notification and an opportunity to be heard.”

SECTION 33. Section 44‑55‑50 of the 1976 Code is amended to read:

“Section 44‑55‑50. (A) In establishing regulations, procedures, and standards under Section 44‑55‑30 and in exercising supervisory powers under Section 44‑55‑40 the ~~board or~~ department must not prohibit or fail to include provisions for recreational activities including boating, water skiing, fishing, and swimming in any reservoir without first making and publishing specific findings that these recreational activities would be injurious to the public health and assigning with particularity the factual basis and reasons for these decisions.

(B) If the ~~board or~~ department determines that these recreational activities would be injurious to the public health it shall cause to have published at least once a week for six consecutive weeks in a newspaper of general circulation in the county or area affected a summary of its findings. Any citizen of this State who objects to the findings of the ~~board or~~ department is entitled to request a public hearing, which the ~~board or~~ department shall conduct within thirty days after the request. The public hearing must be a formal evidentiary hearing where testimony must be recorded. After the hearing the board or department shall review its initial findings and shall within thirty days after the hearing affirm or reevaluate its findings in writing and give notice to known interested parties. The findings of the ~~board or~~ department may be appealed ~~to the circuit court~~ in accordance with the Administrative Procedures Act to the Administrative Law Court, which is empowered to modify or overrule the findings if the court determines the findings to be arbitrary or unsupported by the evidence. Notice of intention to appeal must be served on the ~~board or~~ department within fifteen days after it has affirmed or reevaluated its initial findings and copies also must be served on known interested parties.

(C) A public water system utilizing a fully owned and protected watershed as its water supply is exempt from this section.”

SECTION 34. Section 44‑55‑60 of the 1976 Code is amended to read:

“Section 44‑55‑60. (A) An imminent hazard is considered to exist when in the judgment of the ~~commissioner~~ director of the department there is a condition which may result in a serious immediate risk to public health in a public water system.

(B) In order to eliminate an imminent hazard, the ~~commissioner~~ director may, without notice or hearing, issue an emergency order requiring the water system to immediately take such action as is required under the circumstances to protect the public health. A copy of the emergency order must be served by certified mail or other appropriate means. An emergency order issued by the ~~commissioner~~ director must be effected immediately and binding until the order is ~~reviewed and modified by the board or~~ modified or rescinded by a court of competent jurisdiction.”

SECTION 35. Section 44‑55‑70 of the 1976 Code is amended to read:

“Section 44‑55‑70. A public water system shall, as soon as practicable, give public notice if it:

(1) is not in compliance with the State Primary Drinking Water Regulations;

(2) fails to perform required monitoring;

(3) is granted a variance for an inability to meet a maximum contaminant level requirement;

(4) is granted an exemption; or

(5) fails to comply with the requirements prescribed by a variance or exemption.

The ~~board~~ department shall prescribe procedures for the public notice, including procedures for notification by publication in a newspaper of general circulation, notification to be given in the water bills of the systems, as long as a condition of violation exists, and other notification as is considered appropriate by the ~~board~~ department.”

SECTION 36. Section 44‑55‑2320(1) of the 1976 Code is amended to read:

“(1) ~~‘Board’ means the Board of Health and Environmental Control~~ Reserved.”

SECTION 37. Section 44‑55‑2360 of the 1976 Code is amended to read:

“Section 44‑55‑2360. It is unlawful for a person to fail to comply with the requirements of this article and regulations promulgated by the department including a permit or order issued by the ~~board~~ director or department.”

SECTION 38. Section 44‑56‑20(1) and (3) of the 1976 Code is amended to read:

“(1) ~~‘Board’ means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Hazardous Waste Management Act~~ Reserved.

(3) ‘Department’ means the Department of Health and Environmental Control, which is charged with responsibility for implementation of the Hazardous Waste Management Act, including personnel ~~thereof~~ of the department which is authorized ~~by the board~~ to act on behalf of the department ~~or board~~.”

SECTION 39. Section 44‑56‑30 of the 1976 Code is amended to read:

“Section 44‑56‑30. The ~~board~~ department shall promulgate such regulations, procedures or standards as may be necessary to protect the health and safety of the public, the health of living organisms and the environment from the effects of improper, inadequate, or unsound management of hazardous wastes. Such regulations may prescribe contingency plans; the criteria for the determination of whether any waste or combination of wastes is hazardous; the requirements for the issuance of permits required by this chapter; standards for the transportation, containerization, and labeling of hazardous wastes consistent with those issued by the United States Department of Transportation; operation and maintenance standards; reporting and record keeping requirements; and other appropriate regulations.”

SECTION 40. Section 44‑56‑130(3) of the 1976 Code is amended to read:

“(3) It shall be unlawful for any person to fail to comply with this chapter and rules and regulations promulgated pursuant to this chapter; to fail to comply with any permit issued under this chapter; or to fail to comply with any order issued by the ~~board,~~ director~~,~~ or department.”

SECTION 41. Section 44‑56‑440(A) of the 1976 Code is amended to read:

“(A) The ~~Board of the~~ Department of Health and Environmental Control shall establish a moratorium on administrative and judicial actions by the department concerning drycleaning facilities and wholesale supply facilities resulting from the discharge of drycleaning solvents to soil or waters of the State. This moratorium applies only to those facilities deemed eligible as defined in this section. The ~~board~~ department may review and determine the appropriateness of the moratorium at least annually. This review shall include, but is not limited to, consideration of these factors:

(1) the solvency of the fund as described in Section 44‑56‑420;

(2) prioritization of the sites;

(3) public health concerns related to the sites;

(4) eligibility of the sites;

(5) corrective action plans submitted to the department.

After review, the ~~board~~ department may suspend all or a portion of the moratorium if necessary.”

SECTION 42. Section 44‑61‑20(i) of the 1976 Code is amended to read:

“(i) ~~‘Board’ means the governing body of the Department of Health and Environmental Control or its designated representative~~ Reserved.”

SECTION 43. Section 44‑61‑30(c) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(c) An Emergency Medical Services Advisory Council must be established composed of representatives of the Department of Health and Environmental Control, the South Carolina Medical Association, the South Carolina Committee on Trauma, the South Carolina Hospital Association, the South Carolina Heart Association, Medical University of South Carolina, University of South Carolina School of Medicine, South Carolina College of Emergency Physicians, South Carolina Emergency Nurses Association, Emergency Management Division of the Office of the Adjutant General, South Carolina Emergency Medical Services Association, State Board for Technical and Comprehensive Education, Governor’s Office of Highway Safety, Department of Health and Human Services, four regional Emergency Medical Services councils, and one EMT first responder agency. Membership on the council must be by appointment by the ~~board~~ director of the department. Three members of the advisory council must be members of organized rescue squads operating in this State, three members shall represent the private emergency services systems, and three members shall represent the county emergency medical services systems.”

SECTION 44. Section 44‑61‑40(b) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(b) Applicants shall file license applications with the appropriate official of the department having authority over emergency services. At a minimum, license applications shall contain evidence of ability to conform to the standards and regulations established by the ~~board~~ department and such other information as may be required by the department. If the application is approved, the license will be issued. If the application is disapproved, the applicant may appeal in a manner pursuant to the Administrative Procedures Act beginning at Section 1‑23‑310.”

SECTION 45. Section 44‑61‑50 of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“Section 44‑61‑50. A vehicle must not be operated as an ambulance, unless its licensed owner applies for and receives an ambulance permit issued by the department for that vehicle. Prior to issuing an original permit for an ambulance, the vehicle for which the permit is issued shall meet all requirements as to vehicle design, construction, staffing, medical and communication equipment and supplies, and sanitation as set forth in this article or in the standards and regulations established by the ~~board~~ department. Absent revocation or suspension permits issued for ambulances are valid for a period not to exceed two years.”

SECTION 46. Section 44‑61‑60 of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“Section 44‑61‑60. (~~a~~A) Such equipment as deemed necessary by the department must be required of organizations applying for ambulance permits. Each licensee of an ambulance shall comply with regulations as may be promulgated by the ~~board~~ department and shall maintain in each ambulance, when it is in use as such, all equipment as may be prescribed by the ~~board~~ department.

(~~b~~B) The transportation of patients and the provision of emergency medical services shall conform to standards adopted by the ~~board~~ department.”

SECTION 47. Section 44‑61‑70(c) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(c) Whoever hinders, obstructs, or interferes with a duly authorized agent of the department while in the performance of his duties or violates a provision of this article or rule or regulation ~~of the board~~ promulgated pursuant to this article is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than five hundred dollars and not more than five thousand dollars or by imprisonment for not less than ten days nor more than six months for each offense. Information pertaining to the license or permit is admissible in evidence in all prosecutions under this article if it is consistent with applicable statutory provisions.”

SECTION 48. Section 44‑61‑80(g) of the 1976 Code, as last amended by Act 271 of 2004, is further amended to read:

“(g) All instructors of emergency medical technician training courses must be certified by the department pursuant to requirements established by the ~~board~~ department; and all such training courses shall be supervised by certified instructors.”

SECTION 49. Section 44‑61‑130 of the 1976 Code, as last amended by Act 320 of 2006, is further amended to read:

“Section 44‑61‑130. A certified emergency medical technician may perform any function consistent with his certification, according to guidelines and regulations that the ~~board~~ department may prescribe. Emergency medical technicians, trained to provide advanced life support and possessing current Department of Health and Environmental Control certification while on duty with a licensed service, are authorized to possess limited quantities of drugs, including controlled substances, as may be approved by the Department of Health and Environmental Control for administration to patients during the regular course of duties of emergency medical technicians, pursuant to the written or verbal order of a physician possessing a valid license to practice medicine in this State; however, the physician must be registered pursuant to state and federal laws pertaining to controlled substances.”

SECTION 50. Section 44‑63‑110 of the 1976 Code is amended to read:

“Section 44‑63‑110. For making, furnishing, or certifying any card, certificate, or certified copy of the record, for filing a record amendment according to the provisions of Section 44‑63‑60, 44‑63‑80, 44‑63‑90 or 44‑63‑100, or for searching the record, when no card, certificate, or certified copy is made, a fee in an amount as determined by the ~~Board of the~~ Department of Health and Environmental Control must be paid by the applicant, except that the Department of Social Services or its designee is not required to pay a fee when the information is needed for the purpose of establishing paternity or establishing, modifying, or enforcing a child support obligation. The amount of the fee established by the ~~board~~ department may not exceed the cost of the services performed and to the extent possible must be charged on a uniform basis throughout the State. When verification of the facts contained in these records is needed for Veterans Administration purposes in connection with a claim, it must be furnished without charge to the Veterans Affairs Division of the Governor’s Office or to a county veterans affairs officer upon request and upon the furnishing of satisfactory evidence that the request is for the purpose authorized in this chapter.”

SECTION 51. Section 44‑67‑30(13) of the 1976 Code is amended to read:

“(13) ~~‘Board’ means the South Carolina Board of Health and Environmental Control~~ Reserved.”

SECTION 52. Section 44‑67‑40 of the 1976 Code is amended to read:

“Section 44‑67‑40. The ~~Board~~ department is authorized to promulgate rules and regulations necessary to carry out the provisions, purposes and intent of this chapter; provided, however, that until July 1, 1979, any contracts entered into pursuant to the provisions of this chapter shall not be subject to procedural rules and regulations of any state agency.”

SECTION 53. Section 44‑67‑120 of the 1976 Code is amended to read:

“Section 44‑67‑120. The department shall contract with as many counties as funding permits for litter removal along public roads and beaches using prison inmates subsidized by the State on a per mile or per square mile basis. Participation by the counties shall be entirely voluntary. The rate of subsidy per mile or per square mile shall be negotiated between the department and the counties, if necessary, taking into account specified varying conditions that affect the cost of litter removal. The rates established shall not exceed the cost of doing the same work with civilian labor. The department shall contract initially with no more than three counties for a period of at least six months in a carefully designed and monitored experiment to determine the costs of litter removal under varying conditions. Upon completion of these experiments the ~~board~~ department shall issue a written statement of the factors to be incorporated in determining the per mile or per square mile rate of subsidy and, subject to published alterations in this statement, shall negotiate all subsequent contracts on the basis of the factors specified in the statement.”

SECTION 54. Section 44‑69‑20(1) of the 1976 Code is amended to read:

“(1) ~~‘Board’ shall mean the South Carolina Board of Health and Environmental Control~~ Reserved.”

SECTION 55. The fourth unnumbered paragraph of Section 44‑69‑30 of the 1976 Code is amended to read:

“The department may establish requirements and conditions upon those entities joined in partnership or receiving transfer of the home care services, licensing, and Certificate of Need including, but not limited to, transfer of employees, coverage of indigent patients, and payments or contributions to the department to continue the provision of basic public health services as determined by the department. All agreements must be reviewed and approved by the ~~board of the~~ department. The department may monitor and enforce the contract or partnership provisions and/or conditions of transfer or any other conditions or requirements of agreements entered into pursuant to this section.”

SECTION 56. Section 44‑69‑50 of the 1976 Code is amended to read:

“Section 44‑69‑50. Reasonable fees shall be established by the ~~Board~~ department. Such fees shall be paid into the State Treasury or refunded to the applicant if the license is denied. Governmental home health agencies are exempt from payment of license fees.”

SECTION 57. Section 44‑71‑20(1) of the 1976 Code is amended to read:

“(1) ~~‘Board’ means the South Carolina Board of Health and Environmental Control~~ Reserved.”

SECTION 58. Section 44‑75‑20(d) of the 1976 Code is amended to read:

“(d) ~~‘Board’ means the Board of Health and Environmental Control~~ Reserved.”

SECTION 59. Section 44‑75‑30 of the 1976 Code is amended to read:

“Section 44‑75‑30. (~~a~~A) The department, with the advice of the Athletic Trainers’ Advisory Committee, must develop standards and prescribe regulations for the improvement of athletic training services in the State. All administrative responsibility for this program is vested in the department.

(~~b~~B) An Athletic Trainers’ Advisory Committee is created consisting of nine members appointed by the ~~board~~ director of the department. Two members must be from the department, one must be from the State Board of Medical Examiners, four must be certified athletic trainers, and two must be from the general public who are not certified or licensed in any health care field and are not connected in any way with athletic trainers.

~~Membership on the committee is by appointment by the board.~~ The terms of the members are for four years or until successors are appointed except that of those first appointed four are appointed to a term of two years.

The committee must meet at least once each year to review the standards and regulations for improving athletic training services and make recommendations to the department.”

SECTION 60. Section 44‑75‑40(e) of the 1976 Code is amended to read:

“(e) Any person whose application is denied, suspended, or revoked is entitled to a contested case hearing ~~before the board if he submits a written request to the board. Proceedings for denial, revocation, or suspension of a certificate must be conducted consistent~~ in accordance with Act 176 of 1977 (Administrative Procedures Act).”

SECTION 61. Section 44‑89‑30(2) of the 1976 Code is amended to read:

“(2) ~~‘Board’ means the South Carolina Board of Health and Environmental Control~~ Reserved.”

SECTION 62. Section 44‑93‑20(C) and (F) of the 1976 Code is amended to read:

“(C) ~~‘Board’ means the South Carolina Board of Health and Environmental Control which is charged with responsibility for implementation of the Infectious Waste Management Act~~ Reserved.

(F) ‘Department’ means the Department of Health and Environmental Control, which is charged with responsibility for implementation of the Infectious Waste Management Act, including personnel of the department authorized ~~by the board~~ to act on behalf of the department  ~~or board~~.”

SECTION 63. Section 44‑93‑150(A) of the 1976 Code is amended to read:

“(A) Whenever the department finds that a person is in violation of a permit, regulation, standard, or requirement under this chapter, the department may issue an order requiring the person to comply with the permit, regulation, standard, or requirement or the department may bring civil action for injunctive relief in the appropriate court; or, the department may request that the Attorney General bring civil or criminal enforcement action under subsection (B) or (C) of this section. Violation of a court order issued pursuant to this section is contempt of the issuing court and punishable as provided by law. The department also may invoke civil penalties as provided in this section for violations of the provisions of this chapter, including an order, permit, regulation, or standard. After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision ~~of the department or board to the Court of Common Pleas~~ in accordance with the Administrative Procedures Act.”

SECTION 64. Section 44‑96‑100(A) of the 1976 Code is amended to read:

“(A) Whenever the department determines that a person is in violation of a regulation promulgated pursuant to this article regarding Sections 44‑96‑160(X) (Used Oil), 44‑96‑170(H) (Waste Tires), or 44‑96‑190(A) (Yard trash, compost), the department may issue an order requiring the person to comply with the regulation or the department may bring civil action for injunctive relief in the appropriate court or the department may request that the Attorney General bring civil or criminal enforcement action under this section. The department also may impose reasonable civil penalties not to exceed ten thousand dollars, for each day of violation, for violations of the regulations promulgated pursuant to this article regarding Sections 44‑96‑160(X), 44‑96‑170(H), or 44‑96‑190(A). After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision ~~of the department or board of the court of common pleas,~~ pursuant to the Administrative Procedures Act.”

SECTION 65. Section 44‑96‑450(A) of the 1976 Code is amended to read:

“(A) Whenever the department finds that a person is in violation of a permit, regulation, standard, or requirement under this article, the department may issue an order requiring the person to comply with the permit, regulation, standard, or requirement, or the department may bring civil action for injunctive relief in the appropriate court, or the department may request that the Attorney General bring civil or criminal enforcement action under this section. The department also may impose reasonable civil penalties established by regulation, not to exceed ten thousand dollars for each day of violation, for violations of the provisions of this article, including any order, permit, regulation, or standard. After exhaustion of administrative remedies, a person against whom a civil penalty is invoked by the department may appeal the decision ~~of the department or board to the court of common pleas~~ pursuant to the Administrative Procedures Act.”

SECTION 66. Section 48‑2‑340 of the 1976 Code is amended to read:

“Section 48‑2‑340. (A) The department, through the commissioner or the commissioner’s designee, shall certify that funding for a specific emergency was necessary to protect the environment or public health, or both. Annually, the department shall prepare an independent accounting of all revenue in the fund. The report must be submitted to the ~~chairman of the Board~~ director of the Department of Health and Environmental Control and must be made available to the public upon request.

(B) Nothing in this section precludes the department from seeking appropriate enforcement action, including a civil ~~penalties~~ penalty and recovery of ~~costs~~ a cost expended from the fund, against a party determined to be responsible for the environmental emergency. ~~Costs~~ A cost recovered pursuant to an enforcement action must be deposited in the fund in accordance with the limitation prescribed in Section 48‑2‑330.”

SECTION 67. Section 48‑39‑10 of the 1976 Code is amended to read:

“Section 48‑39‑10. As used in this chapter:

(A) ‘Applicant’ means ~~any~~ a person who files an application for a permit under the provisions of this chapter.

(B) ‘Coastal zone’ means all coastal waters and submerged lands seaward to the State’s jurisdictional limits and all lands and waters in the counties of the State which contain any one or more of the critical areas. These counties are Beaufort, Berkeley, Charleston, Colleton, Dorchester, Horry, Jasper and Georgetown.

(C) ‘Division’ means the Coastal Division of the South Carolina Department of Health and Environmental Control.

(D) ‘CDPS’ means Coastal Division Permitting Staff.

(E) ‘Saline waters’ means those waters which contain a measurable quantity of sea water, at least one part chloride ion per thousand.

(F) ‘Coastal waters’ means the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high‑water mark. Provided, however, that the department may designate boundaries which approximate the mean extent of saline waters until such time as the mean extent of saline waters can be determined scientifically.

(G) ‘Tidelands’ means all areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters whether or not the saline waters reach the area naturally or through artificial water courses and those areas that are normally characterized by the prevalence of saline water vegetation capable of growth and reproduction. Provided, however, nothing in this definition shall apply to wetland areas that are not an integral part of an estuarine system. Further, until such time as the exact geographic extent of this definition can be scientifically determined, the department shall have the authority to designate its approximate geographic extent.

(H) ‘Beaches’ means those lands subject to periodic inundation by tidal and wave action so that no nonlittoral vegetation is established.

(I) ‘Primary ocean front sand dunes’ means those dunes which constitute the front row of dunes adjacent to the Atlantic Ocean.

(J) ‘Critical area’ means ~~any of the following~~:

(1) coastal waters;

(2) tidelands;

(3) beaches; or

(4) beach/dune system which is the area from the mean high‑water mark to the setback line as determined in Section 48‑39‑280.

(K) ‘Person’ means ~~any~~ an individual, organization, association, partnership, business trust, estate trust, corporation, public or municipal corporation, county, local government unit, public or private authority and ~~shall~~ must include the State of South Carolina, its political subdivisions, ~~and all its~~ departments, boards, bureaus, or other agencies, unless specifically exempted by this chapter.

(L) ‘Estuarine sanctuary’ means a research area designated as an estuarine sanctuary by the Secretary of Commerce.

(M) ‘Marine sanctuary’ means ~~any~~ a water and wetland ~~areas~~ area designated as a marine sanctuary by the Secretary of Commerce.

(N) ‘Minor development activities’ means the construction, maintenance, repair or alteration of any private piers or erosion control structure, the construction of which does not involve dredge activities.

(O) ‘Dredging’ means the removal or displacement by any means of soil, sand, gravel, shells or other material, whether of intrinsic value or not, from ~~any~~ a critical area.

(P) ‘Filling’ means either the displacement of saline waters by the depositing into critical areas of soil, sand, gravel, shells or other material or the artificial alteration of water levels or water currents by physical structure, drainage ditches or otherwise.

(Q) ‘Submerged lands’ means those river, creek, and ocean bottoms lying below mean low‑water mark.

(R) ‘Oil’ means crude petroleum oil and all other hydrocarbons, regardless of specific gravity, that are produced in liquid form by ordinary production methods, but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir.

(S) ‘Gas’ means all natural gas and all other fluid hydrocarbons not hereinabove defined as oil, including condensate because it originally was in the gaseous phase in the reservoir.

(T) ‘Fuel’ means gas and oil.

(U) ‘Emergency’ means ~~any~~ an unusual incident resulting from natural or unnatural causes which endanger the health, safety or resources of the residents of the State, including damages or erosion to any beach or shore resulting from a hurricane, storm or other such violent disturbance.

(V) ‘Department’ means the South Carolina Department of Health and Environmental Control.

~~(W) ‘Board’ means the board of the department.~~”

SECTION 68. Section 48‑39‑280(E) of the 1976 Code is amended to read:

“(E) A landowner claiming ownership of property affected who feels that the final or revised setback line, baseline, or erosion rate as adopted is in error, upon submittal of substantiating evidence, must be granted a review of the setback line, baseline, or erosion rate, or a review of all three. The requests must be forwarded to the department ~~board~~ in accordance with Section 44‑1‑60 and the final decision of the ~~board~~ department may be appealed to the Administrative Law Court as provided in Chapter 23 ~~of~~, Title 1.”

SECTION 69. Section 48‑43‑10 of the 1976 Code is amended to read:

“Section 48‑43‑10. Unless the context otherwise requires, the terms defined in this section shall have the following meaning when used in this chapter:

(A) ‘Waste’ means and includes:

(1) physical waste, as that term is generally understood in the oil and gas industry;

(2) the inefficient, excessive, or improper use, or the unnecessary dissipation of, reservoir energy;

(3) the inefficient storing of oil and gas;

(4) the locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or that causes or tends to cause unnecessary or excessive surface loss or destruction or oil or gas;

(5) the production of oil or gas in excess of

(a) transportation or marketing facilities;

(b) the amount reasonably required to be produced in the proper drilling, completing or testing of the well from which it is produced; or

(c) oil or gas otherwise usefully ~~utilized~~ used but gas produced from an oil well or condensate well pending the time when, with reasonable diligence, the gas can be sold or otherwise usefully utilized on terms and conditions that are just and reasonable shall not be considered waste if the production of such gas has been approved by order of the department;

(6) underground or above ground waste in the production or storage of oil, gas, or condensate, however caused, and whether or not defined in other subdivisions hereof.

(B) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(C) ‘Person’ means ~~any~~ a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representatives ~~of any kind~~, and includes ~~any~~ a government or ~~any~~ a political subdivision or ~~any~~ agency ~~thereof~~.

(D) ‘Oil’ means crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods, but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir.

(E) ‘Gas’ means all natural gas and all other fluid hydrocarbons not ~~hereinabove~~ defined in this section as oil, including condensate because ~~it~~ originally it was in the gaseous phase in the reservoir.

(F) ‘Condensate’ means a liquid ~~hydrocarbons that were~~ hydrocarbon originally that was in the gaseous phase in the reservoir.

(G) ‘Pool’ means an underground reservoir containing a common accumulation of oil and gas or both; each zone of a structure that is completely separated from any other zone in the same structure is a pool.

(H) ‘Field’ means the general area underlain by one or more pools.

(I) ‘Owner’ means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas that he produces therefrom, either for himself or for himself and others.

(J) ‘Producer’ means the owner of a well or wells capable of producing oil or gas or both.

(K) ‘Just and Equitable Share of the Production’ means, as to each person, that part of the authorized production from the pool that is substantially in the proportion that the amount of recoverable oil or gas or both in the developed areas of his tract or tracts in the pool bears to the recoverable oil or gas or both in the total of the developed areas in the pool.

(L) ‘Developed Area’ means a spacing unit on which a well has been completed that is capable of producing oil or gas, or the acreage that is otherwise attributed to a well by the department for allowable purposes.

(M) ‘Protect Correlative Rights’ means ~~that the~~ an action or regulation by the department should afford a reasonable opportunity to ~~each~~ a person entitled thereto to recover or receive the oil or gas in his tract or tracts or the equivalent ~~thereto~~ to it, without being required to drill unnecessary wells or to incur ~~other~~ another unnecessary expense to recover or receive such oil or gas or its equivalent.

(N) ‘Product’ means ~~any~~ a commodity made from oil or gas, and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubrication oil, blends or mixtures of oil with one or more liquid products or by‑products derived from oil or gas, and blends or mixtures of two or more liquid products or by‑products derived from oil or gas, whether herein enumerated or not.

(O) ‘Illegal Oil’ means oil ~~that has been~~ produced from ~~any~~ a well within the State in excess of the quantity permitted by ~~any~~ a rule, regulation, or order of the department.

(P) ‘Illegal Gas’ means gas ~~that has been~~ produced from ~~any~~ a well within the State in excess of the quantity permitted by ~~any~~ a rule, regulation, or order of the department.

(Q) ‘Illegal Product’ means ~~any~~ a product derived in whole or in part from illegal oil or illegal gas.

(R) ‘Certificate of Clearance’ means a permit prescribed by the department for the transportation or the delivery of oil or gas or product.

(S) ‘Pollutant’ means ~~any~~ an emission that significantly derogates the quality of the air, water or land.

(T) ‘Pollution’ means the act of emitting pollutants into the air or water or onto the land.

(U) ‘Royalty owner’ means the person who pursuant to a lease arrangement with another has the right to receive, free of costs, an allocation of production or payments based upon the value of production.

(V) ‘Geothermal resources’ mean the resources defined in Section 10‑9‑310 of the 1976 Code.

(W) ‘Sanitary landfill’ means a solid waste disposal facility regulated by the department ~~of Health and Environmental Control~~.

~~(X)~~ ~~‘Board’ means board of the department.~~”

SECTION 70. Section 48‑43‑30 of the 1976 Code is amended to read:

“Section 48‑43‑30. (A) This chapter ~~shall~~ must apply to all lands however owned, including the submerged lands, both inland and offshore, tidelands and wetlands located within the jurisdictional limits of the State and ~~any lands~~ land owned or administered by ~~any~~ a government ~~or any~~, agency, or political subdivision ~~thereof~~, over which the State, under its police power has jurisdiction; and to that end the department is authorized to:

(1) prevent waste of oil and gas, to protect correlative rights and to prevent pollution of the water, air and land by oil or gas, and otherwise to administer and enforce this chapter. It has jurisdiction over all persons and property necessary for that purpose. In the event of a conflict, the duty to prevent waste is paramount~~.~~;

(2) make such investigations as it ~~deems~~ considers proper to determine whether action by the department in discharging its duties is necessary~~.~~; and

(3) hire personnel to carry out the purposes of this chapter.

(B) Without limiting its general authority, the department shall have specific authority:

(1) to require:

(a) identification of ownership of an oil or gas ~~wells~~ well, producing ~~leases, tanks, plants, structures, and facilities~~ lease, tank, plants, structure, and facility for the transportation or refining of oil and gas;

(b) the preparing and filing of an well ~~logs~~ log and ~~samples~~ sample, directional ~~surveys~~ survey and ~~reports~~ report on well location, drilling and production, provided, however, that the log and samples of an exploratory or wildcat well need not be filed before one year after the completion of the well and upon the filing of the log and samples of such well the department shall keep the log and samples and information contained therein confidential for one year from the date of filing if requested by the operator in writing to do so and the department may keep the log and samples and information contained therein confidential for an additional year at its discretion if the operator requests in writing that the department keep such log and samples and information confidential for an additional year~~.~~;

(c) the drilling, casing, operation, and plugging of wells in such manner as to prevent (~~a~~i) the escape of oil or gas out of one pool into another, (~~b~~ii) the detrimental intrusion of water into an oil or gas pool that is avoidable by efficient operations, (~~c~~iii) the pollution of a fresh water ~~supplies~~ supply by oil, gas, or salt water, and (~~d~~iv) blowouts, cavings, seepages, and fire;

(d) the taking of tests of oil or gas wells;

(e) the furnishing by all persons who apply for a drilling permit a reasonable performance bond with good and sufficient surety with the State of South Carolina as beneficiary to indemnify the State from loss or expense resulting from such person’s failure to comply with the provisions of this chapter or the rules, regulations or orders of the department including the duty to plug each dry or abandoned well and to repair each well causing waste or pollution if repair will prevent waste or pollution; a performance bond may cover more than one drilling operation of the same person provided that the amount of such performance bond is increased to cover the additional well each time an application for a drilling permit is submitted to the department by that person~~.~~;

(f) that the production from wells be separated into gaseous and liquid hydrocarbons, and that each be measured by means and upon standards that may be prescribed by the department;

(g) that ~~wells~~ a well not be operated with inefficient gas‑oil or water‑oil ratios, to fix these ratios, and to limit production from ~~wells~~ a well with inefficient gas‑oil or water‑oil ratios;

(h) ~~certificates~~ a certificate of clearance in connection with the transportation or delivery of oil, gas, or product;

(i) the metering or other measuring of oil, gas, or product;

(j) that ~~every~~ a person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas in this State keep and maintain complete and accurate records of the quantities ~~thereof~~ of these actions, ~~which~~ and make these records ~~shall be~~ available for examination by the department or its agents at ~~all~~ a reasonable ~~times~~ time;

(k) the filing of ~~reports~~ a report or ~~plats~~ a plat with the department that it may prescribe;

(l) ~~permits~~ a permit for the onshore and offshore exploration of oil and gas ~~both~~ on public and private lands whether highlands, wetlands or submerged land;

(m) the placing of meters approved by the department ~~which shall at all times~~ that must be under the supervision and control of the department ~~wherever~~ where the department may designate on ~~all pipelines~~ a pipeline, gathering ~~systems~~ system, barge ~~terminals~~ terminal, loading ~~racks~~ rack, ~~refineries~~ refinery, or other ~~places deemed~~ place considered necessary to prevent the transportation of illegally produced oil and gas;

(n) payment of a reasonable ~~fees~~ fee for ~~all publications~~ a publication, ~~materials~~ material, ~~charts~~ chart, ~~services~~ service and similar items furnished to ~~persons~~ a person at ~~their~~ his request;

(o) that ~~all persons~~ a person who ~~desire~~ desires to drill ~~wells~~ a well for oil or gas obtain a permit from the department prior to the commencement of any drilling operations; and

(p) that ~~all pipelines~~ a pipeline placed in the Atlantic Ocean, its harbors, bays and other bodies of water ~~which~~ that are a part of the Atlantic Ocean to transport oil, gas, condensate or product that cross the lands and under waters that are within the territorial jurisdiction of the State of South Carolina be located under the bottom of the Atlantic Ocean, its harbors, bays and other bodies of water ~~which~~ that are a part of the Atlantic Ocean so that the pipelines will not interfere with navigation, fishing, shrimping, and other lawful recreational and commercial activities~~.~~; and

(2) to regulate:

(a) the drilling, testing, completing, stimulating, producing, reworking and plugging of wells, and all other operations associated with the production of oil and gas;

(b) the spacing or locating of wells;

(c) operations to increase ultimate recovery, such as cycling of gas, the maintenance of pressure, and the introduction of gas, water or other substances into a producing formation;

(d) the disposal of salt water and oil‑field wastes;

(e) the exploration for oil or gas in the waters and on the lands that are within the jurisdictional limits of the State regardless of ownership;

(f) the transportation of oil and gas, as defined by this chapter and as distinguished by the definitions from product, from whatever source to a gathering ~~systems~~ system, ~~refineries~~ refinery, and other storage and processing ~~facilities which handle~~ facility that handles oil and gas; and

(g) the commingling of oil and gas produced from wells having different owners or producers and to adopt such rules and regulations applicable to such commingling as may be necessary to protect the rights of the owners, producers and royalty owners of the wells from which the commingling oil or gas is produced~~.~~; and

(3) to limit the production of oil, gas, or condensate from any field, pool, area, lease, or well, and to allocate production~~.~~;

(4) to classify and reclassify pools as oil, gas and condensate pools and to classify and reclassify wells as oil, gas or condensate wells~~.~~;

(5) to promulgate, after hearing and notice as ~~hereinafter~~ provided in this title, ~~such rules and~~ regulations, and issue ~~such~~ orders reasonably necessary to prevent waste and oil ~~discharges~~ discharge from a drilling and production ~~platforms~~ platform, ~~pipelines~~ pipeline, gathering ~~systems~~ system, processing ~~facilities~~ facility, storage ~~facilities~~ facility, ~~refineries~~ refinery, port ~~facilities~~ facility, ~~tankers~~ tanker and other ~~facilities~~ facility and ~~vessels~~ vessel that may be a source of an oil ~~spills~~ spill and to protect correlative rights, to govern the practice and procedure before the ~~board~~ department and to fulfill its duties and the purposes of this chapter~~.~~;

(6) to regulate the exploration, drilling, production, and transportation of methane gas in and related to a sanitary ~~landfills~~ landfill. The department is authorized to exercise discretion in regulating such ~~activities~~ an activity and may impose ~~any~~ a requirement of this chapter as ~~is~~ necessary, in the opinion of the department, to prevent waste of oil and gas, to protect correlative rights and to prevent pollution of the water, air, and land by oil and gas. The department is further authorized to require any person applying for a drilling permit or otherwise producing methane gas in a sanitary landfill to comply with one of the following requirements for financial responsibility in an amount deemed sufficient by the department in its discretion in order to achieve the purpose specified in Section 48‑43‑30(A)(1):

(~~i~~a) furnish a bond consistent with the requirements of Section 48‑43‑30(B)(1)(e); or

(~~ii~~b) furnish proof of insurance with the State of South Carolina as beneficiary. Before the issuance of drilling permits for methane gas recovery from sanitary landfills, the department must certify that the proposed activity is consistent with the Department of Health and Environmental Control regulations governing the operation, monitoring, and maintenance of the landfills and applicable permit conditions.”

SECTION 71. Section 48‑43‑50 of the 1976 Code is amended to read:

“Section 48‑43‑50. (A) The ~~board~~ department or ~~an~~ the Administrative Law ~~Judge shall have the power to~~ Court may conduct ~~hearings~~ a hearing, ~~to~~ summon ~~witnesses~~ a witness, ~~to~~ administer ~~oaths~~ an oath, and ~~to~~ require the production of ~~records~~ a record, ~~books~~ book, and ~~documents~~ document for examination at ~~any~~ a hearing or investigation.

(B) Upon failure or refusal on the part of ~~any~~ a person to comply with a subpoena issued by the ~~board~~ department pursuant to this section, or upon the refusal of ~~any~~ a witness to testify as to ~~any~~ a matter regarding which he may be interrogated and ~~which~~ that is pertinent to the hearing or investigation, ~~any~~ a circuit court in the State, upon the application of the ~~board~~ department, may issue an order to compel such person to comply with such subpoena, and to attend before the ~~board~~ department and produce such ~~records~~ record, ~~books~~ book, and ~~documents~~ document for examination, and to give his testimony. ~~Such~~ The circuit court ~~shall have the power to~~ may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify ~~therein~~.”

SECTION 72. Section 48‑43‑60 of the 1976 Code is amended to read:

“Section 48‑43‑60. ~~Any~~ A person, who is aggrieved and has a direct interest in the subject matter of ~~any~~ a final order issued by the ~~board~~ department may appeal ~~such~~ the order to the circuit court.”

SECTION 73. Section 48‑43‑510 of the 1976 Code is amended to read:

“Section 48‑43‑510. When used in this article unless the context clearly requires otherwise:

(1) ‘Department’ means the Department of Health and Environmental Control.

(2) ‘Director’ means the director of the department.

(3) ‘Barrel’ means 42 U. S. gallons at 60° Fahrenheit.

(4) ‘Other measurements’ means ~~measurements~~ a measurement set by the department for ~~products~~ a product transferred at ~~terminals which are other than~~ a terminal that is not a fluid or ~~which are~~ is not commonly measured by the barrel.

(5) ‘Discharge’ ~~shall include~~ includes, but not be limited to, ~~any~~ a spilling, leaking, seeping, pouring, emitting, emptying, or dumping ~~which~~ that occurs within the territorial limits of the State or outside of the territorial limits of the State and affects lands and waters within the territorial limits of the State.

(6) ‘Pollutants’ shall include oil of any kind and in any form, gasoline, ~~pesticides~~ a pesticide, ammonia, chlorine, and derivatives ~~thereof~~ of these products.

(7) ‘Pollution’ means the presence in the outdoor atmosphere or waters of the States of ~~any~~ one or more substances or pollutants, in ~~quantities which are or may~~ a quantity that is or might be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or ~~which~~ that may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(8) ‘Terminal facility’ means ~~any~~ a waterfront or offshore facility ~~of any kind~~, other than ~~vessels~~ a vessel not owned or operated by ~~such~~ the facility, and directly associated waterfront or offshore appurtenances including pipelines located on land, including submerged lands, or on or under the surface of any kind of water, which facility and related appurtenances are used or are capable of being used for the purpose of drilling for, pumping, storing, handling, transferring, processing, or refining ~~pollutants~~ a pollutant, including, but not limited to, ~~any~~ such a facility and a related ~~appurtenances~~ appurtenance owned or operated by a public utility or a ~~governmental~~ government or ~~quasi‑governmental~~ quasi‑government body. A vessel ~~shall~~ must be considered a terminal facility only ~~in the event of a~~ when a ship‑to‑ship transfer of ~~pollutants~~ a pollutant occurs, and only that vessel going to or coming from the place of transfer and the terminal facility. For the purposes of this article ‘terminal facility’ ~~shall~~ may not be construed to include a waterfront ~~facilities~~ facility owned and operated by ~~governmental entities~~ a government entity acting as ~~agents~~ an agent of a public convenience for ~~operators~~ an operator engaged in ~~the~~ drilling for ~~or~~, pumping, storing, handling, transferring, processing, or refining of~~, pollutants~~ a pollutant; however, ~~each~~ an operator engaged in ~~the~~ drilling for ~~or~~, pumping, storing, handling, transferring, processing, or refining ~~of pollutants~~ a pollutant through a waterfront facility owned and operated by ~~such~~ a governmental entity ~~shall~~ must be construed as a terminal facility.

(9) ‘Owner’ means ~~any~~ a person owning a terminal facility; ‘operator’ means ~~any~~ a person operating a terminal facility~~, whether~~ by lease, contract, or other form of agreement.

(10) ‘Transfer’ or ‘transferred’ includes onloading or offloading between a terminal facility and vessel, vessel and vessel, or terminal facility and terminal facility.

(11) ‘Vessel’ includes ~~every description of~~ watercraft or other contrivance used, or capable of being used, as a means of transportation on water, whether self‑propelled or otherwise, and includes barges and tugs.

(12) ‘Discharge cleanup organization’ means ~~any~~ a group, incorporated or unincorporated, of owners or operators of waterfront terminal facilities in ~~any~~ a port or harbor of the state, and ~~any other~~ another person who may elect to join, organized for the purpose of containing and cleaning up discharges of pollutants through cooperative efforts and shared equipment and facilities.

(13) ~~‘Board’ means the Department of Health and Environmental Control.~~

~~(14)~~ ‘Person’ means ~~any~~ an individual, partnership, joint venture, corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(~~15~~14) ‘Registrant’ is a terminal facility required to possess a valid registration certificate to operate as a terminal facility.”

SECTION 74. Section 49‑21‑10 of the 1976 Code is amended to read:

“Section 49‑21‑10. For purposes of this chapter:

(1) ‘Department’ or ‘DHEC’ means the South Carolina Department of Health and Environmental Control;

(2) ‘River basin’ means the area drained by a river and its tributaries or through a specified point on a river, as determined in subsection (7) of Section 49‑21‑60;

(3) ‘Receiving river basin’ means a river basin which is the recipient of an increase in water, over and above that occurring naturally, as the result of a diversion or transfer of water from a different river basin;

(4) ‘Losing river basin’ means a river basin which sustains a decrease in water as the result of a diversion or transfer of water to a different river basin and there is no significant return of the water to the river basin of origin;

(5) ‘Person’ means any and all persons, including individuals, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, federal or state governmental agencies, or private or public corporations organized under the laws of this State or any other state or country.

~~(6) “Board” means the board of the department.~~”

SECTION 75. Section 49‑21‑40 of the 1976 Code is amended to read:

“Section 49‑21‑40. (A~~.~~) ~~No~~ A permit under Section 49‑21‑20 may not be issued for a longer period than the longest of the following, unless the applicant requests a shorter period:

(1) twenty years; or

(2) a period found by the department to be reasonable based upon review of all relevant facts and circumstances pertaining to the proposed water transfer but for a period no longer than forty years.

(B~~.~~) The department may modify, suspend, or revoke any water transfer permit, including authority to transfer water pursuant to Section 49‑21‑50, for good cause consistent with the following procedures:

(1) Before ~~any~~ a permit may be modified, suspended, or revoked the department shall give the permittee notice of the proposed action and afford the permittee an opportunity for a hearing before the ~~board~~ department. ~~Any~~ A hearing must be conducted pursuant to the South Carolina Administrative Procedures Act (Act 176 of 1977).

(2) ~~All hearings~~ A hearing under this section must be before ~~an~~ the Administrative Law ~~Judge~~ Court.

(3) A full and complete record of all proceedings at any hearing under this chapter must be taken by a reporter appointed by the ~~by an~~ Administrative Law ~~Judge~~ Court or by other method approved by the Attorney General. ~~Any~~ A party to a proceeding is entitled to a copy of the record upon the payment of the reasonable cost as determined by the Administrative Law ~~Judge~~ Court.

(4) The burden of proof at ~~any~~ a hearing under this subsection ~~B~~ is upon the moving party.

(5) ~~Any~~ An appeal of the decision by the Administrative Law ~~Judge~~ Court ~~shall~~ must be made to the ~~board~~ department pursuant to the ~~provisions of the~~ Administrative Procedures Act.

(6) Judicial review ~~and stays~~ a stay of enforcement of the decision of the ~~board~~ department must be pursuant to the South Carolina Administrative Procedures Act, but ~~any~~ a petition for judicial review or stay of the decision of the ~~board~~ department must be filed in the circuit court in the county in which the subject permitted water transfer originates.

(C~~.~~) ~~Permits~~ A permit may be renewed following their expiration upon a full review of all factors considered issuing a permit for the first time.

(D~~.~~) ~~Permits~~ A permit may not be transferred except with the approval of the department.”

SECTION 76. Section 49‑21‑80 of the 1976 Code is amended to read:

“Section 49‑21‑80. The ~~board is empowered to~~ department may negotiate ~~agreements~~ an agreement, ~~accords~~ an accord, or ~~compacts~~ compact on behalf of and in the name of the State with other states or the United States, or both, with ~~any~~ an agency, department, or commission of either, or both, relating to ~~transfers~~ a transfer of water that ~~impact~~ impacts waters of this State, or are connected to or flowing into those waters. ~~Any~~ An interstate ~~compacts~~ compact made by the ~~board~~ department by authority of this chapter are subject to approval by concurrent resolution of the General Assembly. The ~~board~~ department is further empowered to represent this State in connection with a water ~~withdrawals~~ withdrawal, ~~diversions~~ diversion, or ~~transfers~~ transfer occurring in ~~other states~~ another state and which may affect this State.”

SECTION 77. This act takes effect July 1, 2011.

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