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# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
THE LEGISLATIVE COUNCIL  
of the  
GENERAL ASSEMBLY

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**Published January 28, 2000**

Volume 24 Issue No.1

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

# ***THE SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT OF THE SOUTH CAROLINA STATE REGISTER**

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

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

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

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

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

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

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

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

## **2000 PUBLICATION SCHEDULE**

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

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

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

## **REPRODUCING OFFICIAL DOCUMENTS**

All documents appearing in the South Carolina *State Register* are prepared and printed at public expense. All media services are especially encouraged to give wide publicity to all documents printed in the *State Register*.

## **PUBLIC INSPECTION OF DOCUMENTS**

A copy of each document filed with the Office of the State Register is available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 734-2145.

## **CERTIFICATE**

Pursuant to Section 1-23-20, Code of Laws of South Carolina, 1976, this issue contains all previously unpublished documents required to be published and filed before the closing date of the issue.

Lynn P. Bartlett  
Editor

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

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

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

## **EMERGENCY REGULATIONS**

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

## REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

## EFFECTIVE DATE OF REGULATIONS

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

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

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## SUBSCRIPTIONS

The *State Register* is published on the fourth Friday of each month by the Legislative Council of the General Assembly of the State of South Carolina. Subscription rate is \$95.00 per year postpaid to points in the United States. Partial subscriptions may be ordered at the rate of \$8.00 per issue for the remainder of a subscription term. Subscriptions begin July 1 and end June 30.

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 South Carolina General Assembly Home Page: [www.lpittr.state.sc.us](http://www.lpittr.state.sc.us)

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2400	Computing Experience for Teachers	1 23 00	Board of Education
2350	Subdivision Water & Sewage	2 01 00	Health and Envir Control
2427	Principal Induction Program	3 11 00	Board of Education
2425	Textbook Adoption	3 11 00	Board of Education
2424	Summer Programs	3 13 00	Board of Education
2430	Hunt Units and Wildlife Management	3 13 00	Dept of Natural Resources
2429	Breathalyzer Tests	3 26 00	Law Enforcement Division
2428	Alcoholic Beverages Culinary Course	3 29 00	Higher Education
2407	Cervidae Entering South Carolina	5 09 00	Clemson University
2433	Hearing Aids; Augmen Comm Devices	5 09 00	LLR: Speech-Language Path & Audio
2377	Def, Meetings, Licensing, Ed, Fees, ..	5 09 00	LLR: Board Physical Therapy Examiners
2378	Def, Brd, Lic, Con Ed, Fees, Ethics	5 09 00	LLR: Board Occupational Therapy
2431	Tanning Facilities	5 09 00	Dept Health and Envir Control
2437	Respiratory Care Practitioners	5 09 00	LLR: Board Medical Examiners
2432	Terr and Cert of Sewerage & Water Util	5 09 00	Public Service Commission
2444	Medical Waste Incin, Def Gen Req	5 09 00	Dept Health and Envir Control
2451	Designation of Plant Pests	5 09 00	Clemson University
2471	Complete Chapter Revision	5 09 00	Employment Security Commission
2469	Volunteer Pharm Tech Free Med Clinics	5 09 00	LLR: Board of Pharmacy
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2467	Fees	5 09 00	LLR: Manufactured Housing Board
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2489	Licensure, Fees, Ethics,	5 11 00	LLR: Board of Funeral Service
2472	Relocation of Displaced Persons	5 11 00	Dept of Transportation
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2473	Contractor Prequalification	5 11 00	Dept of Transportation
2475	Use of State Aid Funds	5 12 00	SC State Library
2438	Appearance Bond	5 13 00	Public Service Commission



## 2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

### REQUEST FOR AN ASSESSMENT REPORT (120 DAY REVIEW PERIOD TOLLED)

DOC NO.	DATE	SUBJECT	AGENCY
2248	4 14 99	Primary and Substantial Portion (Video Game Machines)	Dept of Revenue

### REQUEST TO WITHDRAW (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2193	2 11 98	Video Poker; Def "Single Place" ...	Dept of Revenue

### RESOLUTIONS INTRODUCED TO DISAPPROVE:(120 DAY REVIEW PERIOD TOLLED)

DOC NO.	DATE	SUBJECT	AGENCY
1984	1 14 99	Principal Evaluation	Board of Education
1981	1 14 99	Policy Development	Board of Education
2360	5 20 99	LIFE Scholarship	Higher Education

### WITHDRAWN:

DOC NO.	DATE	SUBJECT	AGENCY
2372	6 22 99	Procedures for Contested Cases	Health and Envir Control

No. 99-63

**WHEREAS**, South Carolina has recognized the need to proactively reform its legal and social services systems by bringing together public, private, and grass-roots organizations involved in the development, implementation, and sustainment of community-focused juvenile justice and family-based policies and programs; and

**WHEREAS**, there is a need for these organizations to work on issues in a more coordinated, cooperative, comprehensive, and cost-effective manner; and

**WHEREAS**, the citizens of the State of South Carolina need the operation of effective community coalitions to address the needs cited above;

**NOW, THEREFORE**, I hereby establish Governor's Community Youth Councils to be located in each of the sixteen (16) judicial circuits (hereinafter referred to as "Youth Councils"), which shall have the following duties and responsibilities:

Address community problems through broad-based local collaborative programs designed to protect public safety, recognize the needs of victims, rehabilitate in the community juveniles who are not a risk to public safety, enhance families, develop intervention and prevention programs for juveniles at risk of offending; and

Study and understand the trends on youth crime and other issues-related data for their particular circuits; and

Develop and maintain circuit-wide inventories of services available to youth and families while utilizing existing community assets; and

Explore, develop, implement, sustain, evaluate, or expand, in the light of such analysis, at least one community-based diversion/intervention/prevention program per Youth Council annually.

It is further provided that these Youth Councils shall have the following voting members:

Balanced representation from each county within the circuit.

Representation from, at a minimum, the following groups:

The court system;

Legal and law enforcement communities;

Education;

Human service agencies;

Local business/industry;

Government;

Nonprofit organizations;

Foundations and other funding sources;

Civic groups;

Chambers of commerce;

Print and electronic media;

Faith community;

Grassroots community activists;

The Youth Council service population (youth, parents, etc.); and

Other citizens who represent an organization with, or who has a personal interest in, the mission of the Youth Councils.

#### 4 EXECUTIVE ORDERS

It is further provided that these Youth Councils have the following non-voting member:

Representative of the SC Center for Family Policy.

Each member will serve a term of two years, with no consecutive term limit for service on the Youth Councils. There are no limitations on the number of individuals that can serve on any Youth Council, as long as they meet the requirements stated above. Nominations to the Youth Councils will be made to the Office of the Governor through the SC Center for Family Policy.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF  
THE STATE OF SOUTH CAROLINA THIS 20th DAY OF  
DECEMBER, 1999.**

**JIM HODGES  
GOVERNOR**

No. 99-64

**WHEREAS**, the undersigned has been informed that Colleton County Sheriff Travis Lee Avant has resigned effective December 26, 1999; and

**WHEREAS**, the undersigned is authorized to appoint a County Sheriff in the event of a vacancy pursuant to Code of Laws of South Carolina (1976), as amended, Sections 1-3-220(2) (Supp. 1998) and 23-11-40(A); and

**WHEREAS**, George A. Malone, who is currently the Chief Deputy Sheriff of Colleton County, South Carolina, is a fit and proper person to serve as the Sheriff of Colleton County.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint George A. Malone as Sheriff of Colleton County until the next general election for county sheriffs and until his successor shall be elected and qualify.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF  
THE STATE OF SOUTH CAROLINA, THIS 20th DAY OF  
DECEMBER, 1999.**

**JIM HODGES  
GOVERNOR**

No. 99-65

**WHEREAS**, Chester County Treasurer Connie Gwin has submitted a letter of resignation, effective December 31, 1999; and

**WHEREAS**, the undersigned is authorized to appoint a County Treasurer in the event of a vacancy pursuant to Code of Laws of South Carolina (1976), as amended, Sections 4-11-20 and 12-45-20; and

**WHEREAS**, Jack L. Kindle, 2437 Douglas School Road, Chester, SC 29706 is a fit and proper person to serve as the Treasurer of Chester County.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Jack L. Kindle as Treasurer of Chester County for the unexpired portion of the term for which his predecessor was appointed, and until a successor shall have been elected and qualify.

This Order shall become effective on January 1, 2000.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF  
THE STATE OF SOUTH CAROLINA, THIS 21ST DAY OF  
DECEMBER 1999.**

**JIM HODGES  
GOVERNOR**

No. 99-66

**WHEREAS**, Executive Order No. 99-64 was issued by the undersigned on December 20, 1999 appointing George A. Malone as Colleton County Sheriff due to the resignation of Travis Lee Avant; and

**WHEREAS**, the letter from the Legislative Delegation nominating George A. Malone contained an incorrect date of resignation for Mr. Avant; and

**WHEREAS**, the undersigned has been informed that Colleton County Sheriff Travis Lee Avant will resign, effective January 3, 2000.

**NOW, THEREFORE**, Executive Order No. 99-64 is hereby amended to reflect that the appointment of George A. Malone as Sheriff takes effect as of the date of Sheriff Travis Lee Avant's resignation on January 3, 2000.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF  
THE STATE OF SOUTH CAROLINA, THIS 30th DAY OF  
DECEMBER, 1999.**

**JIM HODGES  
GOVERNOR**

## 6 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

**Document No. 2453**  
**Proposed Amendment of R.61-93**  
**Standards for Licensing Outpatient Facilities for**  
**Chemically Dependent or Addicted Persons**

The Public Hearing before the Department of Health and Environmental Control Board concerning the proposed revision of Regulation 61-93, *Standards For Licensing Outpatient Facilities for Chemically Dependent or Addicted Persons*, originally scheduled for December 9, 1999, and subsequently rescheduled for January 20, 2000, has been rescheduled for February 10, 2000.

The public hearing will be held at the regularly-scheduled Board meeting on February 10, 2000, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. The board meeting commences at 10:00 a.m. at which time the board will consider items on its agenda in the order presented. The order of presentation for public hearing on February 10 will be noticed in the board's agenda to be published by the Department 10 days in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulation.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication January 28, 2000, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Planning and Certification of Need Section, 2600 Bull St., Columbia, SC 29201 at (803) 737-7200.

#### Affecting Charleston County

Renovation/expansion of Emergency Services Department.  
Medical University of South Carolina  
Charleston, South Carolina  
Project Cost: \$ 2,582,410

#### Affecting Florence County

Renovations for the addition of three (3) operating rooms and two (2) cystoscopic procedure rooms on the second floor of the McLeod Pavilion.  
McLeod Regional Medical Center  
Florence, South Carolina  
Project Cost: \$ 5,646,873

#### Affecting Greenville County

Establishment of a freestanding, multi-specialty, ambulatory surgical center with two (2) operating rooms and one (1) cystoscopy room. The proposed project will include the practices of gynecology, urology, and plastic surgery. Carolina Center Women and Subspecialty Care.

Greenville, South Carolina

Project Cost: \$ 2,680,668

Purchase of the 112-bed nursing home by Laurel Baye Healthcare of Greenville, LLC..

Grady Hipp Nursing Center

Greenville, South Carolina

Project Cost: \$ 4,800,000

Affecting Greenwood County

Construction of a freestanding ambulatory surgery center with 5 operating rooms.

The Surgery Center at Self Memorial Hospital

Greenwood, South Carolina

Project Cost: \$ 4,885,000

Affecting Horry County

Major renovation and expansion of the hospital with no change in licensed bed capacity.

Grand Strand Regional Medical Center

Myrtle Beach, South Carolina

Project Cost: \$36,310,709

Establishment of a freestanding multi-specialty ambulatory surgery center with two (2) operating rooms and related support spaces; the center is to be located in leased space in a Medical Office building to be developed by Strand Office Partners, LLC.

Ocean Ambulatory Surgery Center

Myrtle Beach, South Carolina

Project Cost: \$ 2,171,205

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning January 28, 2000. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert Whiteside, Director, Planning and Certification of Need Section, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 737-7200.

Affecting Charleston County

Addition of 3 comprehensive rehabilitation beds for a total of 42 comprehensive rehabilitation beds.

HealthSouth Rehabilitation Hospital

Charleston, South Carolina

Project Cost: \$ 13,311

Renovation/expansion of the Emergency Services Department.

Medical University of South Carolina Medical Center

Charleston, South Carolina

## **8 NOTICES**

Project Cost: \$ 2,582,410

Affecting Greenville County

Purchase of the 112-bed nursing home by Laurel Baye Healthcare of Greenville, LLC.

Grady Hipp Nursing Center

Greenville, South Carolina

Project Cost: \$ 4,800,000

Affecting Orangeburg County

Development of a twenty-four (24) bed comprehensive rehabilitation unit through the conversion of twenty-four (24) medical/surgical beds for a total licensed capacity of 247 general, 15 psychiatric, and 24 rehabilitation beds.

The Regional Medical Center of Orangeburg and Calhoun Counties.

Orangeburg, South Carolina

Project Cost: \$ 177,751

Affecting Richland County

Purchase of a Position Emission Tomography (PET) Scanner and renovations to accommodate the equipment.

Palmetto Baptist Medical Center Columbia

Columbia, South Carolina

Project Cost: \$ 1,549,359

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

### **PUBLIC NOTICE**

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act. Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and individuals listed below, please submit your comments in writing, no later than February 28, 2000 to:

Contractor Certification Program

South Carolina Department of Health and Environmental Control

Division of Underground Storage Tank Management

Attn: Loraine Tindall

2600 Bull Street

Columbia, SC 29201

The following companies and individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

Class I

Class II

Wetlands Environmental

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF MEDICAL EXAMINERS**

In accordance with S.C. Code Ann. Section 1-23-40, notice is hereby given that the South Carolina Board of Medical Examiners has adopted the following statement regarding the disclosure of confidential patient information as guidance for licensed physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics, as adopted by the Board. For disciplinary purposes in matters before the Board, compliance with this statement will not be considered a violation of the physician's professional duty to safeguard patient confidences under S.C. Code Ann. Sections 40-47-200(F)(7), (8), (12) or Regulation 81-60(D) of the Principles of Medical Ethics, adopted by the Board.

**DISCLOSURE OF CONFIDENTIAL PATIENT INFORMATION  
IN CLAIM OR LAWSUIT**

S.C. Code Ann. Sections 40-47-200(F)(7), (8), and (12), among other things, establish a violation of the Principles of Medical Ethics as "misconduct" for which disciplinary action may be taken by the Board. Regulation 81-60(D) of the Principles of Medical Ethics provides that "[a] physician shall respect the rights of patients, of colleagues and of other health professionals, and shall safeguard patient confidences within the constraints of the law."

When a patient files a claim or lawsuit of any type which places in issue the patient's physical or mental condition or the quality of medical treatment received, the patient is deemed to have partially released the physician from the ethical duty of confidentiality concerning such matters in issue, to the extent that the physician, in his discretion, may discuss such matters with any attorney involved in the claim or lawsuit, upon written verification of the attorney's relationship and the medical issues in the claim or lawsuit. This discussion may cover any aspect of the physical and/or mental conditions of the patient pertinent to the claim or lawsuit, including, but not limited to, patient history, subjective complaints, findings, diagnosis, treatment, counseling, prognosis, and the extent of any permanent and/or partial disability or impairment. The physician is not required to discuss the patient with anyone, including the patient's own attorney, except when subpoenaed or when otherwise compelled by law. Testimony at trial or by deposition or affidavit should be given by the physician only with the patient's permission or when subpoenaed or otherwise compelled by law.

Although a physician who conducts himself in accordance with this policy will avoid disciplinary action by the Board of Medical Examiners, a physician may still face civil liability under some circumstances, and should therefore consult private counsel where doubt exists as to what actions are appropriate.



## 10 NOTICES

### DEPARTMENT OF TRANSPORTATION TRAFFIC ENGINEERING SECTION

#### NOTICE OF PROPOSED REVISION TO THE SOUTH CAROLINA TRUCK NETWORK

The South Carolina Department of Transportation, pursuant to Regulation 63-392(2) as authorized by Section 56-5-4075 of the S. C. Code (1976 as amended), is proposing an addition to the South Carolina Truck Network. The Department proposes to add the following route segment to the Network:

#### **US 17 from I-95 (Exit # 5) to Georgia state line**

Addition to the network will allow the use of this route segment by tandem trailer combinations and other larger vehicles.

Pursuant to regulation 63-392(2), the public is invited to submit comments in writing regarding this proposal to the Director of Traffic Engineering, SC Department of Transportation, P.O. Box 191, Columbia, SC 29201 by February 28, 2000. Should there be sufficient interest, and upon request, the Department will hold a public hearing.

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

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

**Notice of Drafting:**

The Department of Health and Environmental Control proposes to amend R.61-68, *Water Classifications and Standards*. Interested persons are invited to submit their views and recommendations in writing to Gina L. Kirkland, Standards Coordinator, Bureau of Water, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, written comments must be received no later than 5:00 p.m. on February 29, 2000.

**Synopsis:**

Section 303(c)(2)(B) of the Federal Clean Water Act (CWA) requires that South Carolina's water quality standards be reviewed and revised, where necessary, at least every three years for the purposes of considering the Environmental Protection Agency's (EPA) most recent numeric and narrative criteria and to comply with recent Federal regulatory revisions and recommendations. The Department has prepared this notice of drafting to begin the required triennial review process. In order to comply with this Federal requirement, the Department will need to revise the existing water quality standards regulation. This review will address several issues to include, but not be limited to, the following:

- Adoption of federal toxics criteria to reflect the most current final published criteria according to Sections 304(a) and 307(a) of the CWA including a change from referencing *Federal Register* documents to listing the numeric values for aquatic life.
- Adoption of numeric criteria for phosphorus, nitrogen, and chlorophyll *a* for the purposes of protecting the waters of the State from nutrient over-enrichment.
- Selection of a more appropriate hardness value for waters of the State to be used for hardness-dependent metals criteria.
- Adoption of statewide turbidity standards.
- Adoption of numeric color standards.
- Review and revision of the bacteriological indicator for protection of recreational uses for possible changes and its suitability and application.
- Inclusion of language to clarify the components of water quality standards.
- Inclusion of language to strengthen the existing narrative standards for issues such as biocriteria, monitoring, and toxicity.
- Inclusion of a description for the ONRW class contained in the existing regulation.
- Clarification of surface water mixing zone allowances by including specific delineations and requirements.
- Clarification of language dealing with contaminated groundwater.
- Inclusion of a reporting requirement for unauthorized discharges to waters of the State.
- Clarification of the applicability of flow conditions.

## 12 DRAFTING

- Clarification of existing language to ensure that downstream uses of waterbodies are protected.
- Clarification of how the Department will determine the applicable areas for use of Maximum Contaminant Levels (MCLs) for human health protection.
- Review and revision of language for antidegradation where appropriate.
- Inclusion of new definitions as needed.
- Corrections as needed.

Legislative review will be required.

### DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180; 1-23-10, *et seq.*

#### Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-37, Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities. Interested persons should submit their views in writing to: Leslie M. Jones, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

#### Synopsis:

The purpose of this amendment is to update the mortality tables to better reflect current experience for all annuity products issued in South Carolina by implementing the Annuity 2000 Mortality Table.

### DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 38-71-730, and 1-23-10 *et seq.*

#### Notice of Drafting:

The South Carolina Department of Insurance is considering amending Regulation 69-46 dealing with Medicare Supplement Insurance. Interested persons should submit their views in writing to: Leslie Jones, Deputy Director, or Sam Trent, Chief Life Actuary, S. C. Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29202-3105.

#### Synopsis:

Revisions are being considered for the regulation addressing Medicare Supplement Insurance. These revisions are technical revisions required to remain in compliance with Social Security Act Amendments of 1994, H.R.5252.

### DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 *et seq.*, 38-3-10 *et seq.*

**Notice of Drafting:**

The South Carolina Department of Insurance proposes to draft Regulation 69-58 designed to protect the financial and personal information of financial institution customers in the State of South Carolina. This regulation is enacted to comply with the requirements of the Gramm-Leach-Bliley Act (i.e., Financial Services Modernization Act-HR-10/S.900). Interested persons should submit their views in writing to: Gwendolyn L. Fuller, South Carolina Department of Insurance, Post Office Box 100105, Columbia, South Carolina 29201-3105.

**Synopsis:**

The Gramm-Leach-Bliley Act imposes privacy requirements on financial institutions, including insurance companies. This privacy regulation would govern the insurance operations of financial institutions. The proposed regulation will address obtaining customer information under false pretenses, attempting to solicit information on a customer under false pretenses, disclosure of nonpublic personal information and privacy rights disclosure. The Gramm-Leach-Bliley Act gives the states the right to promulgate regulations which will afford greater protection.

**DEPARTMENT OF INSURANCE****CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110; 38-9-180 ; 1-23-10, *et seq.*

**Notice of Drafting:**

**THE SOUTH CAROLINA DEPARTMENT OF INSURANCE PROPOSES TO DRAFT REGULATION 69-57, VALUATION OF LIFE INSURANCE POLICIES. INTERESTED PERSONS SHOULD SUBMIT THEIR VIEWS IN WRITING TO: LESLIE M. JONES, SOUTH CAROLINA DEPARTMENT OF INSURANCE, POST OFFICE BOX 100105, COLUMBIA, SOUTH CAROLINA 29202-3105.**

**Synopsis:**

The purpose of this Regulation is to provide clarification of the appropriate reserve methodology for life insurance policies. Specifically, this Regulation may affect current reserving practices with respect to term and term-like policies.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION****BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS****CHAPTER 93**

Statutory Authority: 1976 Code Section 40-35-230

**Notice of Drafting:**

The Board of Long Term Health Care Administrators is considering proposing amendments to Chapter 93 Section 70(A)(2) relating to the licensing requirements for community residential care facility administrators. The amendment would conform the language in the regulation to the statute. Written comments can be submitted to Dana Welborn, Board Administrator, at P.O. Box 11329, Columbia, South Carolina 29211-1329.

**Synopsis:**

## 14 DRAFTING

The purpose of the amendment is to conform the language in the regulation describing the licensing requirements for community residential care facility administrators with that of the statute, Section 40-35-230(B). The regulation will state the licensing requirements as set forth in the statute.

### DEPARTMENT OF NATURAL RESOURCES

#### CHAPTER 123

Statutory Authority: 1976 Code Section 50-11-2200

#### Notice of Drafting:

The Department of Natural Resources proposes to amend Regulation 123-40, "Hunt Units and Game Management Area Regulations". The subject of the proposed action is to amend the regulation to modify existing seasons and methods to allow additional hunting opportunity on wildlife management areas. Any person interested may submit written comments to William S. McTeer, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

#### Synopsis:

This amended regulation will allow the expansion of existing seasons and methods within the current season framework to allow additional opportunity on existing and new Wildlife Management Areas. The regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas.

### PUBLIC SERVICE COMMISSION

#### CHAPTER 103

Statutory Authority: 1976 Code Sections 58-3-140, as amended, 58-27-140,  
and 58-27-150

#### Notice of Drafting:

The Public Service Commission proposes to amend 26 S.C. Code Ann. Regs. 103-302(4) (1976) regarding the definition of an electrical utility. Interested persons may submit comments to Mr. Gary E. Walsh, Executive Director, Public Service Commission of South Carolina, P.O. Drawer 11649, Columbia, S.C. 29211. To be considered, comments must be received no later than 4:45 p.m. on March 15, 2000, the close of the drafting comment period. Please refer to Docket No. 1999-505-E in written comments forwarded to the Commission.

#### Synopsis:

The Public Service Commission is considering amending 26 S.C. Code Ann. Regs. 103-302(4) (1976). The proposed amendments would exempt any person or corporation providing electric service to their residents, employees or tenants, which charges their residents, employees or tenants no more than the actual cost of the electricity received from the supplier from the definition of an electrical utility. In addition, the proposed amendment exempts a person, corporation, or municipality furnishing electricity only to himself or itself, their residents, employees or tenants when such current is not resold or used by others from the definition of an electrical utility.

Legislative review of this proposed regulation is required.

### DEPARTMENT OF REVENUE

#### CHAPTER 117

*South Carolina State Register Vol. 24, Issue 1*  
January 28, 2000

Statutory Authority: Section 12-4-320 of the 1976 Code

**Notice of Drafting:**

The South Carolina Department of Revenue is proposing to amend Regulation 117-174.257 so as to make the regulation consistent with the sales and use tax statute. Interested persons may submit comments to Mr. Meredith Cleland, South Carolina Department of Revenue, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 pm on March 3, 2000, the close of the drafting comment period.

**Synopsis:**

Sales of hearing aids are now exempt per Code Section 12-36-2120(28), but the regulation says they are not. In addition, the proposal will make the regulation consistent with the language in Code Section 12-36-2120(28). The regulation was last amended effective July 1, 1981. Since that date, Section 12-36-2120(28) has changed substantially. The proposal will also remove language pertaining to the definitions for "medicine" and "prosthetic devices," without changing the definition.

**DEPARTMENT OF SOCIAL SERVICES**

**CHAPTER 114**

Statutory Authority: 1976 Code Section 43-1-80

**Notice of Drafting:**

The South Carolina Department of Social Services, Office of Constituent Services, proposed to amend Regulation 114-110, "Fair Hearings". Interested persons should submit their views in writing to L. Lynn McLendon, Director, Individual and Provider Rights, South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520. To be considered, all comments must be received no later than February 25, 2000.

**Synopsis:**

These regulations govern the administrative hearing process used in Federal and State programs administered by the Department. The regulation must be updated to reflect the individual program requirements. The amended regulation will include: a code of ethics; changes in the Committee; changes in foster parent appeal rights; changes mandated by the Children's Code and compliance with the revised Family Independence Act.

## 16 PROPOSED REGULATIONS

Document No. 2502  
**DEPARTMENT OF EDUCATION**  
CHAPTER 43

Statutory Authority: S. C. Code Ann. Sections 59-5-60, 59-67-20, and 59-67-410 (1990) and  
S. C. Code Ann. Section 59-67-570 (Supp. 1998)

43-80 (EE). Operation of Public Pupil Transportation Services

### **Preamble:**

The State Department proposes to amend the Student Transportation Regulation, by adding Part "EE," to create the School Bus Specifications Committee. This change requires new regulatory language to formally establish the South Carolina School Bus Specifications Committee and the Committee's membership and authority. Since 1994 the Department of Education has used a Specifications Committee composed of school district and State school transportation officials to create school bus specifications. The new regulation will officially create the School Bus Specifications Committee within the Department of Education, Office of Transportation; identify how members will be appointed and their representation; and establish Committee responsibilities, and the reporting process. The goal of the State Board of Education is to establish a structured entity that will recommend school bus specifications to the State Superintendent of Education. The Committee will be charged with developing school bus specifications for all types of school buses needed in South Carolina. The Committee will be empowered to review and amend specifications, when necessary, to assure that South Carolina maintains the best specifications to address South Carolina's student transportation needs.

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

Should a hearing be requested pursuant to S. C. Code Ann. Section 1-23-110(A)(3) (Supp. 1998), as amended, such a hearing shall be held on March 7, 2000, at 3:00 p.m., at the Rutledge Building. Interested members can submit written comments on the proposed regulation by writing to Mr. Donald Tudor, Director of Transportation, State Department of Education, Room 209-A, Rutledge Building, 1429 Senate Street, Columbia, S. C. 29201. Comments must be received no later than 5:00 p.m. on February 25, 2000.

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

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

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

DESCRIPTION OF REGULATION: 43-80. (EE) Operation of Public Pupil Transportation Services

Purpose: Regulation 43-80. Part EE is being amended to add the School Bus Specifications Committee to formalize the process of adopting school bus specifications for the procurement of State owned school buses.

Legal Authority: The legal authority for Regulation 43-80 is S. C. Code Ann. Sections 59-5-60, 59-67-20, and 59-67-410 (1990) and Section 59-67-570 (Supp. 1998).

Plan for Implementation: The proposed amendment will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendment will be implemented by providing the regulated community with copies of the regulation.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:** The proposed amendment will formally establish the process for adopting school bus specifications.

DETERMINATION OF COSTS AND BENEFITS: There are no anticipated additional costs. The proposed amendment will formally create a process for statewide interest to participate in the school bus specification process.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: None

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be no detrimental effects on the environment and public health if this regulation is not implemented.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.lpitr.state.sc.us](http://www.lpitr.state.sc.us). If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No.2504  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: S.C. Code Sections 48-2-10 and 44-93-10 et seq.

R.61-30. Environmental Protection Fees

**Preamble:**

Regulation 61-30 prescribes those fees applicable to applicants and holders of permits, licenses, certificates, certifications, permits, and establishes schedules for timely action on permit applications. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation of applicability.

The Department is proposing amendment of R.61-30 (1) to incorporate new fees for National Pollutant Discharge Elimination System (NPDES) Storm Water Permitting, (2) to add a fee for Laboratory Analysis of Private Drinking Water Wells, (3) to increase fees for Laboratory Certification, (4) Infectious Waste Management, and for specific (5) Radioactive Materials Licenses. This amendment (6) will also address time frames for review of certain Air Quality Permits.

Discussion of Proposed Revisions:

**(1) Incorporate new fees for National Pollutant Discharge Elimination System (NPDES):**

<u>SECTION CITATION</u>	<u>EXPLANATION OF CHANGE</u>
61-30.G(1)(a)	Revision of annual operating fee excludes municipal separate storm sewer system (MS4) permits and coverage under a general permit
61-30.G(1)(a)(iii)	Coverage under general permit is revised to exclude MS4 general permit
61-30.G(1)(a)(iv)	New section is added to address fees for Municipal Separate Storm Sewer Systems
61-30.G(1)(a)(iv)	Existing section is renumbered to 61-30.G(1)(a)(v). No other changes.



## 18 PROPOSED REGULATIONS

61-30.G(1)(c)(v) Section is revised to 61-30.G(1)(c)(v), (v)1 and (v)2. Establishes a fee per disturbed acre; clarifies fee structure for when the Department is the entity responsible for reviewing the storm water pollution prevention plan submitted for review and when an entity other than the Department is responsible.

### (2) Add a fee for Laboratory Analysis of Private Drinking Water Wells:

<u>SECTION CITATION</u>	<u>EXPLANATION OF CHANGE</u>
61-30.G(11)	New section is added for individual residential well monitoring fees

### (3) Increase fees for Laboratory Certification:

<u>SECTION CITATION</u>	<u>EXPLANATION OF CHANGE</u>
61-30.G(4)(a)	Laboratory certification services - increase in Application fee
61-30.G(5)(b)	Laboratory certification services - increase in Minimum annual fee (per laboratory)
61-30.G(4)(c)	Laboratory certification services - fee increase for Clean Water Act (CWA) Inorganics per parameter
61-30.G(4)(d)	Laboratory certification services - fee increase for Safe Drinking Water Act (SDWA) Inorganics per parameter
61-30.G(4)(e)	Laboratory certification services - fee increase for SDWA "Secondary" Inorganics per parameter
61-30.G(4)(f)(i)	Laboratory certification services - fee increase for PCBs and Pesticides
61-30.G(4)(f)(ii)	Laboratory certification services - fee increase for herbicides
61-30.G(4)(f)(iii)	Laboratory certification services - fee increase for volatiles
61-30.G(4)(f)(iv)	Laboratory certification services - fee increase for semi-volatiles
61-30.G(4)(f)(v)	Laboratory certification services - fee increase for dioxins and furans
61-30.G(4)(g)(i)	Laboratory certification services for Safe Drinking Water Act (SDWA) Organics - fee increase for trihalomethanes
61-30.G(4)(g)(ii)	Laboratory certification services for SDWA - fee increase for organic compounds
61-30.G(4)(g)(iii)	Laboratory certification services for SDWA - fee increase for volatiles
61-30.G(4)(h)(i)	Laboratory certification services for microbiology - fee increase for total coliform
61-30.G(4)(h)(ii)	Laboratory certification services for microbiology - fee increase for fecal coliform
61-30.G(4)(h)(iii)	Laboratory certification services for microbiology - fee increase for fecal streptococci

- 61-30.G(4)(j)(i) Laboratory certification services for solid and hazardous waste (SW-846 methods) - fee increase for inorganics (per parameter)
- 61-30.G(4)(j)(ii) Laboratory certification services for solid and hazardous waste (SW-846 methods) - fee increase for organics (per parameter group). Also, SW-846 certification fee cap amount is increased for those laboratories which have paid the applicable per-parameter fees for CWA tests.
- 61-30.G(4)(k)(i) Laboratory certification services for air quality analysis - fee increase for inorganics (per parameter)
- 61-30.G(4)(k)(ii) Laboratory certification services for air quality analysis - fee increase for organics (per parameter group). Also, certification fee cap amount is increased for those laboratories which have paid the applicable per-parameter fees for CWA tests.

**(4) Add a fee for Infectious Waste Management:**

<u>SECTION CITATION</u>	<u>EXPLANATION OF CHANGE</u>
61-30.G(12)	New section is added for infectious waste annual fees

**(5) Increase fees for Specific Radioactive Materials Licenses:**

<u>SECTION CITATION</u>	<u>EXPLANATION OF CHANGE</u>
61-30.G(5)(i)	Radioactive materials licenses - fee increase for irradiator (unshielded)
61-30.G(5)(j)	Radioactive materials licenses - fee increase for irradiator (self-contained)
61-30.G(5)(k)	Radioactive materials licenses - fee increase for large quantity source
61-30.G(5)(l)	Radioactive materials licenses - fee increase for industrial radiography (in -plant only)
61-30.G(5)(m)	Radioactive materials licenses - fee increase for industrial radiography (temporary field site)
61-30.G(5)(n)	Radioactive materials licenses - fee increase for industrial radiography under reciprocity
61-30.G(5)(o)	Radioactive materials licenses - fee increase for general license for distribution
61-30.G(5)(p)	Radioactive materials licenses - fee increase for medical institution
61-30.G(5)(q)	Radioactive materials licenses - fee increase for teletherapy
61-30.G(5)(r)	Radioactive materials licenses - fee increase for industrial gauges
61-30.G(5)(s)	Radioactive materials licenses - fee increase for Laboratories-Commercial/Medical
61-30.G(5)(t)	Radioactive materials licenses - fee increase for educational institution

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61-30.G(5)(u)	Radioactive materials licenses - fee increase for nuclear pharmacy
61-30.G(5)(v)	Radioactive materials licenses - fee increase for medical private practice
61-30.G(5)(w)	Radioactive materials licenses - fee increase for moisture/density gauge
61-30.G(5)(x)	Radioactive materials licenses - fee increase for gas chromatograph
61-30.G(5)(y)	Radioactive materials licenses - fee increase for services/consultants
61-30.G(5)(z)	Radioactive materials licenses - fee increase for bone mineral analyzer
61-30.G(5)(aa)	Radioactive materials licenses - fee increase for eye applicator
61-30.G(5)(bb)	Radioactive materials licenses - fee increase for medical/academic board license
61-30.G(5)(cc)	Radioactive materials licenses - fee increase for well logging
61-30.G(5)(dd)	Radioactive materials licenses - fee increase for mobile scanning services
61-30.G(5)(ee)	Radioactive materials licenses - fee increase for decontamination/nuclear laundry
61-30.G(5)(ff)	Radioactive materials licenses - fee increases for All Other

### (6) Times Frames for Review of Certain Air Quality Permits:

<u>SECTION CITATION</u>	<u>EXPLANATION OF CHANGE</u>
61-30.H(2)(c)(i)	Air Quality Construction Permit - Revised to allow exception for permits issued under the <i>National Emission Standards for Hazardous Air Pollutants</i> (NESHAP) Regulation (R.61-62.63) which provides 105 days for permit issuance.

### Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control (DHEC) invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on February 16, 2000, at 2:00 p.m. in Room 3380 (1st Floor Conference Room) of the Aycock Building of the Sims/Aycock Complex at DHEC, 2600 Bull Street, Columbia, S.C. The purpose of the forum is to clarify issues and receive public comments on the proposed amendments of R.61-30. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the public hearing scheduled pursuant to S.C. Code Section 1-23-110 and -111 as noticed below.

Interested persons are also provided an opportunity to submit written comments to the staff forum by writing to Mr. Michael Rowe, Director, Division of Planning and Research, EQC Administration, DHEC, 2600 Bull St., Columbia, S.C. by February 25, 2000. Comments received for the forum and comment period by the deadline shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the proposed regulations for public notice and comment may be obtained by contacting Mr. Rowe at the above address.

**Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-111 and 1-23-110:**

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulations at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on March 9, 2000. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department at 2600 Bull St., Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board agenda is routinely published 10 days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their presentations to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Mr. Michael Rowe at the above address. Written comments must be received no later than February 25, 2000. Comments received during the forum and public comment period shall be considered by staff in formulating the final proposed regulation for public hearing before the Board on March 9, 2000. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the text of the final proposed regulations for public hearing may be obtained by contacting Mr. Rowe at the above address.

**Preliminary Fiscal Impact Statement:**

(1) Incorporate new fees for NPDES: There will be no negative fiscal impact on state government as a result of this action. Changes to Section 61-30.G(1)(a) will actually result in a cost savings to the affected municipalities by lowering the fees which would be due under the present situation. Other storm water fee changes will result in additional fees being collected by the Department for review of storm water pollution prevention plans.

(2) Add a fee for Laboratory Analysis of Private Drinking Water Wells: Individual private well owners will no longer be able to obtain a free analysis of well water. A nominal fee is instituted with exceptions being made for indigent cases.

(3) Increase fees for Laboratory Certification: Laboratories will pay increased fees for both applications and annual operating permits, as well as the per parameter cost for certification.

(4) Add a fee for Infectious Waste Management: A new fee for Infectious Waste Generators and Transportors will be implemented. This additional cost has been historically authorized by the statute, but until this amendment, not implemented by the Department.

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(5) Increase fees for Specific Radioactive Materials Licenses: Fees for Specific Radioactive Licenses are increased significantly. Increased revenue in the program is required to maintain staff levels and program operational protocol.

(6) Time Frames for Review of Certain Air Quality Permits. There are no fiscal impacts involved with changing Air Quality Time Frames.

### Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code and (9)-(11).

DESCRIPTION OF REGULATION: R.61-30, Environmental Protection Fees, was promulgated June 23, 1995, pursuant to the Environmental Protection Fund Act of 1993, S.C. Code Section 48-2-10 *et seq.* This regulation prescribes those fees applicable to applicants and holders of permits, licenses, certificates, certifications, permits, and establishes schedules for timely action on permit applications. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation of applicability.

Purpose: The Department is proposing amendment of R.61-30 to (1) incorporate new fees for National Pollutant Discharge Elimination System (NPDES) Storm Water Permitting, (2) to add a fee for Laboratory Analysis of Private Drinking Water Wells, (3) to increase fees for Laboratory Certification, (4) Infectious Waste Management, and for some (5) Radioactive Materials Licenses. This amendment will also address (6) Time Frames for Review of certain Air Quality Permits.

Legal Authority: S.C. Code Sections 48-2-10 and 44-93-10 *et seq.*

Plan for Implementation: The proposed amendments would be incorporated within R.61-30 upon approval of the General Assembly, and publication in the State Register. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented.

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

(1) Incorporate new fees for NPDES Storm Water Permitting: The Department is in the process of issuing two Municipal Separate Storm Sewer System (MS4) NPDES Permits. Our present fee structure is based on the number of pipes which would create a disproportionately large fee compared to industrial and municipal wastewater systems. We plan to create a separate category for MS4 permits. Also the Phase II storm water regulations to be published by EPA in October will lower the NPDES threshold for coverage of construction sites down to 1 acre. We presently do not require submittal of plans for projects less than 2 acres under the State Sediment and Erosion Control Program. This new federal requirement will significantly increase the work load in this program.

(2) Add a fee for Laboratory Analysis of Private Drinking Water Wells: The Department plans to charge a nominal fee for analysis and return of results to private well owners. This fee is separate from permitting fees assessed for the individual residential and irrigation well permitting regulations and the total coliform analysis included in those fees. This fee structure will have three fees: one for total/fecal coliform; one for the metals and minerals analysis (11 inorganic parameters); and a third for any other chemical contaminant or scan. There are no state appropriations directed for this service. The cost of this 20+ year old program comes from funds appropriated for public drinking water oversight monitoring. The costs of performing these analyses and delivering the results back to the owner has more than doubled in the past 20 years. The proposed fee will not cover 100% of the cost, but will be used to defray a portion. The Department will develop procedures for providing this service for indigent well owners seeking assistance.

(3) Increase fees for Laboratory Certification: This program has suffered almost a forty percent (40%) reduction in revenue from fees since 1994. The reduction has occurred because of the highly competitive nature of the commercial lab industry over the past few years. The program has operated at a deficit, with the loss of one full time position for 2 years. An increase in the number of criminal fraud cases has created an added workload to the program which did not previously exist. Operating money for the program does not exist and vehicle replacements for inspectors as well as restoring the lost position (FTE) is a priority. In addition, the program has been asked by the regulated community to re-instate the out-of-state evaluation program which cannot be done without additional staff

(4) Increase fees for Infectious Waste Management: The fee schedule for this program will be expanded and increased in some areas. The schedule of fees will be re-located from another regulation to assure customers a common business structure for billing and administration of the revenue program.

(5) Increase fees for Specific Radioactive Materials Licenses: Radioactive Materials Licenses (administered by the Radiological Health Bureau, Office of Health Services). Fees for these activities haven't been increased for over fifteen years. South Carolina's fees are lower than other Southeastern states and the Nuclear Regulatory Commission (NRC). Training, which was previously funded by the NRC is still required but no longer federally funded. The Department is required by statute (Section 13-7-45, S.C. Code) to set fees in an amount to fund the program. *Radiological Material Licenses administered by the Land and Waste Management Bureau of the Office of Environmental Quality Control are excluded from this proposal.*

(6) Time Frames for Review of Certain Air Quality Permits: A reference will be added to the AirTime Frames for Review for Air Quality Construction Permits for permits covered under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) Regulation (R.61- 62.63.43 {f}). This existing regulation contains permit review times specific to this type of activity.

**DETERMINATION OF COSTS AND BENEFITS:**

(1) Incorporate new fees for NPDES Storm Water Permitting: Plans for implementing the amendments are as follows:

(a) The Stormwater NPDES are a new category of NPDES permit created by EPA regulatory changes over the past four years. The proposed Stormwater NPDES Annual fees are in line with similar fees in place in other states. Since these are NPDES permits the schedule in (G)1(a)(i) & (ii) would have to be applied, which would create a disproportionately large amount due to the large number of outfall pipes which discharge stormwater. These fees would be implemented to provide this relief.

(b) The Construction NPDES Stormwater General Permit fees are the same as presently being charged. The \$125 is presently provided for in this section. The \$50 per disturbed acre is presently provided for under R.72-306 and applicants will not be charged a fee under both regulations. The only proposed change is to raise the cap from \$1,125 to \$2,000.

(2) Add a fee for Laboratory Analysis of Private Drinking Water Wells: Individual residential Well Monitoring fees are proposed to defray a portion of the cost to provide this service to the public. The Department receives no appropriations or specific funding to provide this service. Each year, the Department analyzes and returns results to private well owners for some 6,000 total and fecal coliform, some 2,000 metals and minerals, and some 200 other chemical parameter samples using laboratory capacity for public drinking water monitoring.

(3) Increase fees for Laboratory Certification: The Office of Environmental Laboratory Certification began a fee program in FY94 to support the program. The Lab Certification program is responsible for evaluating both in-state and out-of-state environmental laboratories for certification. This program helps ensure that laboratories performing environmental analyses for the public or for businesses and municipalities that submit data to the Department are performing them in accordance with EPA or other environmental regulations.

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The number of laboratories generating the fee varies drastically from year to year, with this year's billing (FY00) the lowest ever. The program has seen the income of the fee decrease almost 40% since the program started in FY94. In fact, the FY00 billing was not enough to support the personnel costs for the year. Currently, no operating monies are generated by the fee program. The loss of revenue, combined with past deficits (from previous years) have forced EQC Labs into the loss of one position from this program, in addition to losing a vacancy in another program area in order to supplement the fee program with additional state dollars. The program currently has two priority one vehicles that need replacement. Without an increase in the cost of the fees, continued downsizing will be required. This will result in a significantly reduced ability to provide quality oversight in our certification efforts. Laboratories have numerous and highly variable tests that they perform. The Lab Certification program is the only program that gives the EQC program areas and the public confidence in the data that environmental laboratories generate. The work is highly technical and it often takes 2 years for new staff to be adequately trained to do this work. We have thus far been able to hire and retain very capable and qualified people who specialize in organics, inorganics, and microbiology. Continued fee decreases will result in the loss of additional personnel.

The proposed fee increase should create enough money to adequately cover current staff as well as allow the replacement of the position lost in FY98. It will also allow the gradual replacement of the priority one vehicles (over a two year period) as well as provide some operating money for the program. The proposed fee increase will provide an operational increase of approximately 36% over the current fee billing.

(4) Increase fees Infectious Waste Management: The infectious waste program is funded by the collection of fees. The Infectious Waste Management Act provides for a treatment fee to help fund the infectious waste program, the infectious waste contingency fund, and the Hampton county delegation fund. The Act, also, allows for the collection of an inspection fee. The treatment and inspection fee is based upon the amount of waste treated in our state. In recent years, receipts from these infectious waste fees have not been sufficient to fully fund the program. The amount of waste treated has fallen off since 1995. For the last year and a half, the treatment and inspection fees have provided less than half of the requisite funds. Therefore, the program needs to collect fees from another source. Since the Act specifically allows for the collection of fees, the program is asking to charge fees to generators and transporters. These new fees should make up the deficit created by lower waste receipts at the commercial facility.

(5) Increase fees for specific Radioactive Materials Licenses: South Carolina is an Agreement State, and as such, the U.S. Nuclear Regulatory Commission (NRC) has relinquished authority to the State to regulate the use of radioactive materials. However, the NRC requires that individuals employed by Agreement States who license and inspect facilities utilizing radioactive material, successfully complete certain specified training courses as well as attend certain continuing education courses. Prior to 1996, NRC funded this training. It is now the States' responsibility to fund this training entirely, with tuition cost for some courses ranging as high as \$7125.

Operating funds for existing positions require increases due to the fact that there have been no adjustments in this area to account for inflation or to account for the need in new purchases of radiation detection instrumentation and other necessary equipment for staff use. The program also has two vehicles in need of replacement. The Radiological Health Branch has experienced cuts in operating funds over time which has further increased the problem in this area. Additional monies from fee increases would also allow the Branch to have the ability to provide salary increases to deserving personnel in an effort to promote staff retention.

The Branch has also recently incurred laboratory costs for the analysis of various radiological samples collected by inspectors. Previously, all samples collected by the Branch were analyzed in the SC DHEC Radiological Laboratory. Due to this laboratory now being unable to provide certain of the required services, some samples must be taken to private laboratories for analysis.

With the proposed increase, South Carolina's fees for radioactive material licenses are still approximately 50% lower than the fee averages for licenses in the surrounding states of North Carolina, Georgia and Florida, and will be one-third the fees charged for identical licenses by the NRC. The proposed fee increase should create enough money to adequately cover program costs, including staff training, and allow for the replacement of vehicles over time. The Atomic Energy and Radiation Control Act requires the Department to recover all costs associated with the program through fees.

(6) Time Frames for Review of certain Air Quality Permits: There are no costs associated with this change.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties associated with the proposed amendments to R. 61-30.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

(1) Incorporate new fees for NPDES Storm Water Permitting: This is a cost-saving measure for large permittees and, as such has no effect on the environment and public health.

(2) Add a fee for Laboratory Analysis of Private Drinking Water Wells: The Department has undertaken this task at no cost in the past. Costs associated with this analytical program are prohibitive to continue offering this service for free. A definite health benefit is derived to the public to be able to obtain private well analysis for a low cost.

(3) Increase fees for Laboratory Certification: Certified Laboratories are the backbone of monitoring and compliance efforts for every sector of the regulated community. It is imperative to continue to provide a high quality population of certified laboratories to operate with the state. Without proper staffing and operational funding, the high quality of the inspection and certification program cannot be maintained.

(4) Increase fees Infectious Waste Management: The legislature has directed the Department to operate the Infectious Waste Management Program and determined that the program is to be operated through fees. Without the additional fees proposed, the present level of operation cannot be maintained.

(5) Increase fees for specific Radioactive Materials Licenses: There is no effect. Increased fees are necessary to simply maintain the present level of effort.

(6) Time Frames for Review of certain Air Quality Permits: This is an operational protocol and has no effect on the environment or public health.

**Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: [www.lpitr.state.sc.us](http://www.lpitr.state.sc.us). If you do not have access to the Internet, the text may be obtained from the promulgating agency.



## 26 PROPOSED REGULATIONS

Document No. 2503  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
CHAPTER 126  
Statutory Authority: 1976 Code Section 44-6-90

ARTICLE 9  
Optional State Supplementation Program

- 126-910. Definitions.
- 126-920. Eligibility.
- 126-930. Termination, Suspension or Reduction of Benefits.
- 126-940. Program Administration.

### **Preamble:**

The state budget proviso establishing the Optional State Supplementation (OSS) Program transferred responsibility for the program from the Department of Social Services to the Department of Health and Human Services, effective for the state's fiscal year 1997-1998. The regulations proposed by the Department of Health and Human Services will formalize certain aspects of the OSS Program as it is currently administered. The proposed regulations are needed in order to provide a more formal framework for the administration of the Optional State Supplementation Program, and to provide guidance to applicants, recipients, and facility providers about the basic parameters of the program. These regulations by the Department of Health and Human Services will supplant the Department of Social Services' OSS Program regulations, which are no longer in effect as the result of the transfer of program responsibility.

A Notice of Drafting was published on November 26, 1999 in the *State Register* (Vol. 23, Issue No. 11, page 19).

### Section by Section Discussion:

#### Regulation 126-910

This new regulation defines key terms and phrases as used in the administration of the Optional State Supplementation Program.

#### Regulation 126-920.

This new regulation sets forth the criteria that an individual must meet in order to be eligible for Optional State Supplementation benefits.

#### Regulation 126-930.

This new regulation is a restatement of the previous DSS regulation providing that an individual's eligibility for further Optional State Supplementation payments must be terminated as soon as information indicating ineligibility is reported.

#### Regulation 126-940.

This new regulation contains basic administrative provisions for the operation of the Optional State Supplementation Program.

These proposed regulations are based heavily upon the provisions of the budget proviso that authorizes the Optional State Supplementation Program (1999 Act No. 100, Part IB., proviso 8.13), as well as the facility participation agreement and related policy and procedure materials that have been in effect for the program since its transfer to the Department of Health and Human Services effective for the state's fiscal year 1997-98. The

Department of Social Services regulations that governed the Optional State Supplementation Program when it was administered by that agency also provided a framework for the currently proposed regulations.

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

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the Administrative Law Judge Division, Edgar A. Brown Building, Suite 224, 1205 Pendleton Street, Columbia, SC 29201, on March 13, 2000 at 11:00 a.m. Should no such request be made by 4:30 p.m. on March 1, 2000, such hearing will be cancelled without further notice. Hearing requests and written comments may be directed to Ms. Anita Bowen, Division of Community and Facility Services, Post Office Box 8206, Columbia, South Carolina 29202-8206, no later than March 1, 2000.

**Preliminary Fiscal Impact Statement:**

No additional state funding is requested.

**Statement of Need and Reasonableness:**

The proposed regulations are needed in order to provide a more formal framework for the administration of the Optional State Supplementation Program, and to provide guidance to applicants, recipients, and facility providers about the basic parameters of the program.

DESCRIPTION OF REGULATION:

ARTICLE 9  
Optional State Supplementation Program

- 126-910. Definitions.
- 126-920. Eligibility.
- 126-930. Termination, Suspension or Reduction of Benefits.
- 126-940. Program Administration.

Purpose of Regulations: (1) To supplant the Department of Social Services regulations, which are no longer in effect as the result of the transfer of program oversight to the Department of Health and Human Services; (2) to provide a more formal framework for the administration of the Optional State Supplementation Program; (3) to provide guidance to applicants, recipients, and facility providers about the basic parameters of the program.

Legal Authority: 1976 Code Section 44-6-90

Plan for Implementation: These regulations will take effect upon publication as final regulations in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS:

These proposed regulations will accomplish the purposes discussed above, and will do so with no disruption or major alteration of the Optional State Supplementation program as it is currently being administered. [S.C. Code Section 1-23-115(C)(2), subject to the exceptions as provided by S.C. Code Section 1-23-110(A)(3)(g)]

DETERMINATION OF COSTS AND BENEFITS:

These proposed regulations will accomplish the purposes discussed above, and will do so with no disruption or major alteration of the Optional State Supplementation program as it is currently being administered. Because these regulations maintain the "status quo" with respect to the administration of the Optional State

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Supplementation Program, their implementation will not result in any increased costs to the State. [S.C. Code Section 1-23-115(C)(3)]

### UNCERTAINTIES OF ESTIMATES:

There are no significant uncertainties of estimates concerning these regulations. [S.C. Code Section 1-23-115(C)(9)]

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no significant effect on the environment of the State. To the extent that these regulations clarify the parameters of the Optional State Supplementation Program, they should enhance the public health of this State by facilitating the efficient administration of the State's resources that are available for the support of a continuum of long term care for the elderly and the disabled. [S.C. Code Section 1-23-115(C)(10)]

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

The failure to implement these regulations will have no significant effect on the environment of the State. The failure to implement these regulations would prevent the State from realizing the benefits to the public health discussed above. [S.C. Code Section 1-23-115(C)(11)]

### **Text:**

The full text of this regulation is available on the South Carolina General Assembly Home Page: **[www.lpitr.state.sc.us](http://www.lpitr.state.sc.us)**. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Document No. 2505  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
CHAPTER 71  
Statutory Authority: 1976 Code Section 41-15-210  
Article I, Subarticle 6  
Occupational Safety and Health Standards

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.