

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

PUBLISHED BY
THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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

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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Columbia, South Carolina 29211

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Enclosed is my check or money order for \$_____. Date _____

Name _____

Address _____

Telephone _____

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2429		SR24-4	Breathalyzer Tests	3 26 00	Law Enforcement Division
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2488		SR24-5	Exam, Classif, Licensure, Financial Sta	5 11 00	LLR: Contractors' Licensing Board
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DOC NO.	DATE	SUBJECT	AGENCY
2248	4 14 99	Primary and Substantial Portion (Video Game Machines)	Dept of Revenue

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2433	2 23 00	Hearing Aids; Augmen Comm Devices	LLR: Speech-Language Path & Audio
2469	2 23 00	Volunteer Pharm Tech Free Med Clinics	LLR: Board of Pharmacy

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DOC NO.	DATE	SUBJECT	AGENCY
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2360	5 20 99	LIFE Scholarship	Commission on Higher Education
2457	4 19 00	Septic Tank Site Evaluation Fees	Dept Health and Envir Control
2481	5 17 00	School Transportation	Board of Education

No. 2000-15

WHEREAS, the undersigned has been informed that Lancaster County Treasurer Mary Alice Belk has resigned effective June 30, 2000; and

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

WHEREAS, Richard Rowell of 1086 West Manor Drive, Lancaster, SC, 29720 is a fit and proper person to serve as the Treasurer of Lancaster County.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Richard Rowell as Treasurer of Lancaster County, effective July 1, 2000, and until the next general election and until his successor shall qualify

**GIVEN UNDER MY HAND AND THE GREAT SEAL
OF THE STATE OF SOUTH CAROLINA, THIS 25th
DAY OF MAY 2000.**

**JIM HODGES
Governor**

No. 2000-16

WHEREAS, the undersigned has been informed that Lancaster County Treasurer Mary Alice Belk is retiring effective June 30, 2000; and

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

WHEREAS, Richard Rowell of 1086 West Manor Drive, Lancaster, SC, 29720 is a fit and proper person to serve as the Treasurer of Lancaster County.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Richard Rowell as Treasurer of Lancaster County, effective July 1, 2000, and until the next general election and until his successor shall qualify.

This Executive Order corrects and supersedes Executive Order No. 2000-15 issued May 25, 2000.

**GIVEN UNDER MY HAND AND THE GREAT SEAL
OF THE STATE OF SOUTH CAROLINA, THIS 30th
DAY OF MAY 2000.**

**JIM HODGES
Governor**

4 EXECUTIVE ORDERS

No. 2000-17

WHEREAS, South Carolina businesses and industries are increasingly concerned by the disparity between our workforce needs and the supply of qualified high school graduates; and

WHEREAS, the *Skills That Work 1998* survey indicate that the greatest challenge facing companies is the “availability of a prepared workforce”; and

WHEREAS, many high school graduates need remedial help to succeed in post-secondary educational programs; and

WHEREAS, State policy should be reevaluated to ensure support for better preparation of high school graduates to meet the needs of the workplace.

NOW, THEREFORE, I hereby establish the Workforce Education Task Force (hereinafter referred to as “the Task Force”), that shall have the following responsibilities:

- a. To conduct an assessment of:
 1. current workforce education initiatives;
 2. the “best practices” in workforce education in South Carolina and in the nation;
 3. workforce demands;
 4. activities provided in schools that contribute to meeting workforce needs;
 5. educational barriers that deter transition into the workforce.
- b. To recommend actions to be undertaken to better prepare our students for the workforce or for post-secondary education.

It is further provided that an interim report shall be submitted to the Governor and the General Assembly no later than November 1, 2000. A final report shall be submitted to the Governor and General Assembly no later than October 1, 2001, at which time the Task Force shall dissolve.

The membership of the Task Force referenced herein will be designated by the Governor within 30 days from the date of this Executive Order.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL
OF THE STATE OF SOUTH CAROLINA, THIS 31st
DAY OF MAY, 2000.**

**JIM HODGES
Governor**

No. 2000-18

WHEREAS, Section 7-13-1170 of the South Carolina Code of Laws (1976), as amended, provides “when any election official of any subdivision of this State charged with ordering, providing for, or holding an election has neglected, failed, or refused to order, provide for, or hold the election at the time appointed, or if for any reason the election is declared void by competent authority, and these facts are made to appear to the satisfaction of the Governor,

he shall, should the law not otherwise provide for this contingency, order an election or a new election to be held at the time and place, and upon the notice being given which to him appears adequate to insure the will of the electorate being fairly expressed. To that end, he may designate the existing election official or other person as he may appoint to perform the necessary official duties pertaining to the election and to declare the result[;]" and

WHEREAS, I have received a letter dated May 25, 2000, from the Clarendon County Election Commission (hereinafter referred to as "the Commission") stating that Clarendon County Board of Canvassers has found irregularities sufficient to affect the outcome of the election for Seat No. 3 of Clarendon County School District Three Board of Trustees, and has unanimously agreed that a new election should be held for Seat No. 3 of the Clarendon County School District Three Board of Trustees; and

WHEREAS, the Commission's letter requests that I set a date for a new election; and

WHEREAS, I have also received a copy of a Resolution by which the Clarendon County School District Three Board of Trustees designates the Clarendon County Election Commission as the entity which shall be responsible for conducting all future school board elections including any special elections held pursuant to the Clarendon County Election Commission's decision in the April 5, 2000 election protest concerning the election for Seat No. 3.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby order:

1. That the Clarendon County Board of Voter Registration take all necessary steps to ensure that the list of registered voters is as accurate as possible;
2. That prior to the election referenced herein, the Clarendon County Board of Voter Registration shall notify all voters added or deleted to the list of registered voters;
3. That accurate maps showing precinct and school district lines be provided at each polling place;
4. That the Clarendon County Election Commission hold an election for Seat No. 3 of the Clarendon County School District Three Board of Trustees on Tuesday, September 12, 2000, or at the earliest possible date and time after Tuesday, September 12, 2000, as is permitted by the United States Department of Justice.

This Executive Order shall be effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL
OF THE STATE OF SOUTH CAROLINA, THIS 31st
DAY OF MAY, 2000.**

JIM HODGES
Governor

6 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF PUBLIC HEARING

The South Carolina Department of Health and Environmental Control (SC DHEC) will conduct a joint public hearing concerning the 2000-2001 Preventive Health and Health Services Block Grant (PHHSBG) and 2000-2001 Title V Maternal and Child Health Block Grant (MCHBG) on Wednesday, July 19, 2000. The hearing will be held in the Peoples Auditorium on the third floor of the Sims/Aycock Building located at 2600 Bull Street, Columbia, SC, from 6:00 p.m. to no later than 8:00 p.m.

The State of South Carolina receives PHHSBG funds from the US Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) under the authorization of Part A, Title XIX of the Public Health Service Act. The grant funds activities in the areas of chronic and infectious disease prevention and other preventive health services, emergency medical services, sexual assault education and prevention and rape crisis intervention.

The State of South Carolina receives MCHBG funds from the US Department of Health and Human Services, Maternal and Child Health Bureau under the authorization of Title V of the Social Security Act of 1935. The grant funds activities in the areas of access to quality maternal and child health services, prenatal, delivery, and post-partum care for at-risk-, low income women, reduction of infant mortality and handicapping conditions among children, immunizations, rehabilitation services, and the promotion of family-centered, community-based, coordinated care for children with special health care needs.

The public is invited to attend the hearing and comment concerning proposed plans for utilization of these block grant funds. Comments received concerning the PHHSBG will be reviewed by the SC Preventive Health and Human Service Block Grant Advisory Committee prior to the submission of the grant application to the CDC. Comments received concerning the MCHBG will be submitted to the Maternal and Child Health Bureau as part of South Carolina's MCHBG application.

Copies of the PHHSBG and MCHBG 2000-2001 grant proposals will be available for public inspection from June 18 through July 19, 2000, during business hours at the SC Department of Health and Environmental Control, Bureau of Community Health, N-225, Michael D. Jarrett Building, 1751 Calhoun Street, Columbia SC.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #00-078-GP-N

June 23, 2000

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-04) "Concrete Batch Plants." This general permit was previously opened for a 30 day public comment period on May 2, 1996, with final issuance on August 5, 1996. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), the 1976 Code of Laws of South Carolina, as amended, and Regulation 61-62 "Air Pollution Control Regulations and Standards," these sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information

submitted by each facility in the General Conditional Major Permit application. Facilities operating under this permit seek to limit their potential to emit to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facility's coverage under this permit should be directed to: Mr. Carl W. Richardson, P.E., Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

Greenwood County

Metromont Materials Corporation
711 Milford Springs Road
Greenwood, South Carolina

Oconee County

Morgan Concrete Company
159 Richland Road
Westminster, South Carolina

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #00-077-GP-N

June 23, 2000

The South Carolina Department of Health and Environmental Control (DHEC) does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-03) "Hot Mix Asphalt Plants." This general permit was previously opened for a 30 day public comment period on May 2, 1996, with final issuance on August 5, 1996. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), and the 1976 Code of Laws of South Carolina, as amended, Regulation 61-62, Air Pollution Control Regulations and Standards, these sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information submitted in the General Conditional Major Permit application. Facilities operating under this permit seek to limit their "potential to emit" to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

8 NOTICES

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours at SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facility's coverage under this permit should be directed to Mr. Carl W. Richardson, P.E., Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

Dorchester County

REA Construction Company
S.C. Route 27
Ridgeville, South Carolina

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST
Public Notice #00-076-GP-N
June 23, 2000

The South Carolina Department of Health and Environmental Control (DHEC) does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-02) "Fuel Combustion Operations." This general permit was previously opened for a 30 day public comment period on November 15, 1995, with final issuance on May 3, 1996. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

In accordance with the provisions of the Pollution Control Act, Sections 48-1-50(5) and 48-1-110(a), and the 1976 Code of Laws of South Carolina, as amended, Regulation 61-62, Air Pollution Control Regulations and Standards, these sources are hereby granted permission to discharge air contaminants into the ambient air. The Bureau of Air Quality authorizes the operation of these sources in accordance with the plans, specifications and other information submitted in the General Conditional Major Permit application. Facilities operating under this permit seek to limit their "potential to emit" to below the thresholds which define a major source by complying with the federally enforceable conditions contained in this permit. Permit coverage is subject to and conditioned upon the terms, limitations, standards, and schedules contained in or specified on said permit.

Interested persons may review the final general permit, materials submitted by the applicant, and any written comments received, during normal business hours, at the following location: SC DHEC, Bureau of Air Quality, 2600 Bull Street, Columbia, South Carolina, 29201.

This notice is given pursuant to the requirements of South Carolina Regulation 61-62.1, Section II G(7)(c). Comments and questions concerning any of the following individual facility's coverage under this permit should be directed to Mr. Carl W. Richardson, P.E., Director, Engineering Services Division, Bureau of Air Quality, SC DHEC, 2600 Bull Street, Columbia, South Carolina, 29201 at (803) 898-4123.

Orangeburg County

South Carolina State University
300 College Street
Orangeburg, South Carolina

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 June 23, 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, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 737-7200.

Affecting Beaufort County

Construction and renovation for the construction of twenty-four (24) general acute care beds for a total of 130 general acute care beds.

Beaufort Memorial Hospital
Beaufort, South Carolina
Project Cost: \$ 1,564,457

Affecting Charleston County

Replacement of a linear accelerator and renovation of space.

MUSC Medical Center
Charleston, South Carolina
Project Cost: \$ 2,190,082

Affecting Greenville County

Lease of a mobile Positron Emission Tomography (PET) Scanner.

Greenville Memorial Medical Center
Greenville, South Carolina
Project Cost: \$ 921,750

Affecting Horry County

Renovation of the hospital for the addition of 47 general acute care beds to include the closure of the existing 18 bed hospital based skilled nursing home unit with conversion of that space to acute care beds resulting in a total licensed bed capacity of 219 general acute care beds.

Grand Strand Regional Medical Center
Myrtle Beach, South Carolina
Project Cost: \$ 2,010,470

Affecting Lexington County

Addition of a one (1) endoscopy suite for a total of four (4) endoscopy suites at the existing ambulatory surgery center restricted to endoscopy procedures only.

South Carolina Endoscopy Center
West Columbia, South Carolina

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Project Cost: \$ 80,000

Affecting Richland County

Construction for the addition of two (2) surgery suites resulting in a total of four (4) surgery suites at the existing ambulatory surgery center, which is restricted to eye surgery only.

Columbia Eye Surgery Center, Inc.

Columbia, South Carolina

Project Cost: \$ 469,094

Affecting Spartanburg County

Change in licensure of an existing ambulatory surgery center restricted to urology only, to a multi-specialty ambulatory surgery center with two (2) operating rooms.

Spartanburg Urology Surgicenter, L.P.

Spartanburg, South Carolina

Project Cost: \$ 45,000

Affecting Union County

Construction of a new Outpatient Surgery Department; relocation and modernization of the OB/GYN Department; and renovation of patient rooms on the third floor of the hospital.

Wallace Thomson Hospital

Union, South Carolina

Project Cost: \$ 5,526,554

Affecting York County

Lease of space in Manchester Village for the development of an Urgent Care Center and Diagnostic Imaging Center to include a previously approved MRI.

Piedmont Healthcare System Urgent Care Center and Diagnostic Imaging Center

Rock Hill, South Carolina

Project Cost: \$ 2,413,521

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 June 23, 2000. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 737-7200.

Affecting Aiken County

Expansion of an existing home health agency to serve the residents of Aiken County.

Tri-County Home Health Care and Services, Inc.

Columbia, South Carolina

Project Cost: \$ 25,000

Affecting Charleston County

Replacement of a linear accelerator and renovation of space.

MUSC Medical Center
Charleston, South Carolina
Project Cost: \$ 2,190,082

Affecting Greenville County

Lease of a mobile Positron Emission Tomography (PET) Scanner

Greenville Memorial Medical Center
Greenville, South Carolina
Project Cost: \$ 921,750

Construction of a new wing to house 20 additional nursing home beds, which will not participate in the Medicaid (Title XIX) Program, for a total of 132 nursing home beds.

Laurel Bay Healthcare of Greenville, LLC
Greenville, South Carolina
Project Cost: \$ 526,870

Affecting Horry County

Construction for the relocation of the existing free-standing multi-specialty ambulatory surgery center with the new facility continuing to be licensed for two (2) operating rooms.

Carolina Regional Surgery Center
Myrtle Beach, South Carolina
Project Cost: \$ 5,822,185

Affecting Richland County

Construction of a replacement facility for the two existing Ambulatory Care Clinic buildings, which will house the Family Practice Program, Children's Hospital Outpatient Center, Dental Services, Lab, and Pharmacy. The project will not affect licensed bed capacity.

Palmetto Richland Memorial Hospital
Columbia, South Carolina
Project Cost: \$ 12,750,000

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

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July 28, 2000 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Underground Storage Tank Management
Attn: Chris Doll
2600 Bull Street
Columbia, SC 29201

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

Class I

Ground Technological Services, Inc.
Advantage Environmental Consulting, Inc.

Class II

Ground Technological Services, Inc.
Advantage Environmental Consulting, Inc.

DEPARTMENT OF REVENUE

NOTICE CONCERNING E-MAIL SUBSCRIPTION SERVICE

The South Carolina Department of Revenue issues the following types of Advisory Opinions:

1. Revenue Advisory Bulletins (Final and Temporary),
2. Revenue Procedural Bulletins (Final and Temporary), and
3. Private Revenue Opinions.

The purposes of advisory opinions include providing guidance to the general public and employees concerning the Department's opinion on the application of laws administered by the Department. These opinions are not binding on the public.

As part of the implementation of these purposes, the Department's website includes an **Advisory Opinion E-Mail Subscription Service** to allow the public to automatically receive draft, temporary, and final advisory opinions via e-mail.

To sign up for the e-mail subscription service, visit the Department's website at <http://www.dor.state.sc.us> and click "Tax Policy (Adv.Opn's)" and then "Subscription Service" and follow the instructions.

DEPARTMENT OF TRANSPORTATION ERRATA

Section 63-300 – 63-310. Contractor Prequalification, Disqualification and Suspension

The instructions for the amendment of R.63-300 et seq. Document Number 2473, Published in the State Register, Volume 24, Issue 5 (May 26, 2000), is corrected so that the new regulations replace previous S. C. Code Sections 63-300 through 63-310.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: Section 44-32-10, *et. seq.*,

Notice of Drafting:

The Department of Health and Environmental Control proposes to draft new regulations establishing standards for permitting body piercing facilities and those technicians who perform the procedures. Interested persons may submit written comments to Jerry L. Paul, Director, Division of Health Licensing, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, all comments must be received no later than 5:00 p.m., July 24, 2000, the close of the drafting period.

Synopsis:

A body piercing chapter was added to the SC Code of Laws (Section 44-32-10, et seq.) on May 1, 2000, with an effective date of October 1, 2000. The law will establish requirements and procedures for body piercing, including provisions for the issuance of permits and the promulgation of regulations by the Department of Health and Environmental Control, payment of permit fees, conducting of inspections, and criminal offenses and penalties. The proposed regulation will be written to include, but not be limited to: definitions; permitting requirements; inspection reporting requirements; Departmental consultations; enforcement action procedures; facility/technician policy/procedures; quality improvement standards; infection control; client record content and maintenance; TB screening requirements; reporting requirements; and a severability clause.

Legislative review of this proposal will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: S.C. Code of Laws Sections 43-5-920 and 43-5-930

Notice of Drafting:

The South Carolina Department of Health and Environmental Control proposes to amend Regulation 61-94, WIC Vendors. Interested persons are invited to submit their views in writing to Joseph J. Pearson, Jr, Director, Vendor Management, Division of WIC Services Box 101106, Columbia, SC 29201. To be considered, comments must be received no later than July 24, 2000, the close of the drafting comment period.

Synopsis:

The United States Department of Agriculture (USDA) promulgated amendments to 7 CFR 246 Special Supplemental Program for Women, Infants and Children (WIC): WIC/Food Stamp Program (FSP) Vendor Disqualification. The Final Rule was published in the Federal Register on March 18, 1999 (64 FR 13311).

The Department proposes to amend this regulation to ensure consistency with the federal regulations governing the WIC/FSP Program Vendor Disqualification which mandate uniform sanctions across State agencies for the most serious WIC Program vendor violations. The implementation of these mandatory sanctions is intended to curb vendor related fraud and abuse in the WIC Program and to promote WIC and (FSP) coordination in the disqualification of vendor and retailers who violate program rules. The Department proposes to adopt the federal amendments.

14 DRAFTING

DEPARTMENT OF REVENUE

Chapter 117

Statutory Authority: 1976 Code Section 12-4-320

Notice of Drafting:

The South Carolina Department of Revenue is considering promulgating a regulation providing a definition of the term “facility” for purposes of Chapter 36 of Title 12. The definition would provide that a facility is generally a single physical location where a taxpayer’s business is conducted, but that in certain instances, two economic activities performed at the same location may constitute two separate facilities. Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Administrative Division, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be submitted no later than 5:00 p.m. on July 31, 2000.

Synopsis:

The term “facility” is used in Chapter 36, but is not defined. For example, in order to qualify for the \$300 cap on the sale of research and development machinery under South Carolina Code Section 12-36-2110(D), the machinery must be located in a separate facility devoted exclusively to research and development. The term “facility” is not defined in the statute. The regulation is designed to define the term “facility” and help taxpayers and the Department of Revenue determine whether there is a single facility or more than one facility at a single location.

SOUTH CAROLINA DEPARTMENT OF REVENUE

Chapter 117

Statutory Authority: 1976 Code Section 12-4-320

Notice of Drafting:

The South Carolina Department of Revenue is considering promulgating a regulation providing a definition of the term “facility” for purposes of Chapter 37 of Title 12. The definition would provide that a facility is generally a single physical location where a taxpayer’s business is conducted, but that in certain instances, two economic activities performed at the same location may constitute two separate facilities. Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Administrative Division, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be submitted no later than 5:00 p.m. on July 31, 2000.

Synopsis:

The term “facility” is used in Chapter 37, but is not defined. For example, several of the property tax exemptions contained in South Carolina Code Section 12-37-220 require that the taxpayer’s location qualify as a certain type of “facility.” The term “facility” is not defined in the statute. The regulation is designed to define the term “facility” and help taxpayers and the Department of Revenue determine whether there is a single facility or more than one facility at a single location.

SOUTH CAROLINA DEPARTMENT OF REVENUE
Chapter 117
Statutory Authority: 1976 Code Section 12-4-320

Notice of Drafting:

The South Carolina Department of Revenue is considering promulgating a regulation providing a definition of the term “facility” for purposes of Chapter 6 of Title 12. The definition would provide that a facility is generally a single physical location where a taxpayer’s business is conducted, but that in certain instances, two economic activities performed at the same location may constitute two separate facilities. Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Administrative Division, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be submitted no later than 5:00 p.m. on July 31, 2000.

Synopsis:

The term “facility” is used in Chapter 6, but is not defined. For example, in order to qualify for the jobs tax credit provided for in Code Section 12-6-3360, a taxpayer must operate a manufacturing facility, tourism facility, processing facility, warehousing facility, distribution facility, research and development facility, corporate office facility, or qualifying service related facility. The term “facility” is not defined in the statute. The regulation is designed to define the term “facility” and help taxpayers and the Department of Revenue determine whether there is a single facility or more than one facility at a single location.

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Document No. 2530

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: S.C. Code Sections 44-1-140(11) and 48-1-10 et seq.

R.61-66, Industrial Waste Disposal Sites and Facilities

R.61-70, Sanitary Landfill Design, Construction and Operation

Preamble:

In the interest of good government and efficiency, the Department is proposing repeal of Regulations 61-66, Industrial Waste Disposal Sites and Facilities, and 61-70, Sanitary Landfill Design, Construction and Operation.

Regulation 61-66 was promulgated in 1972 and was never amended. It contains antiquated and obsolete requirements which were effectively superseded by standards promulgated pursuant to Solid Waste Regulations 61-107.11, Construction, Demolition, and Land-Clearing Debris Landfills, 61-107.13, Municipal Solid Waste Incinerator Ash Landfills, 61-107.16, Industrial Solid Waste Landfills, and 61-107.258, Municipal Solid Waste Landfills. A Notice of Drafting for the proposed repeal was published in the State Register on March 24, 2000.

R.61-70 was promulgated in 1971 and was never amended. It contains antiquated and obsolete requirements which were effectively superseded by standards promulgated pursuant to Solid Waste Regulations 61-107.11, Construction, Demolition, and Land-Clearing Debris Landfills, 61-107.13, Municipal Solid Waste Incinerator Ash Landfills, 61-107.16, Industrial Solid Waste Landfills, and 61-107.258, Municipal Solid Waste Landfills. A Notice of Drafting for the proposed repeal was published in the State Register on March 24, 2000.

Repeal of these regulations will eliminate any confusion as to which solid waste regulations apply and are being enforced. See Statement of Need and Reasonableness herein.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed repeal of R.61-66 and R.61-70 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on August 10, 2000. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items in the order presented on its agenda. The agenda is published by the Department ten days in advance of the meeting. 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 comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed repeals of R.61-66 and R.61-70 by writing to Ellen Jennings at the Bureau of Land and Waste Management, S.C. Department of Health and Environmental Control 2600 Bull, Street, Columbia, S.C. 29201; Fax (803) 896-4001. Written comments must be received no later than 4:00 p.m. on July 24, 2000. Comments received by the deadline requested shall be considered by staff in formulating the final proposed regulation for public hearing on August 10, 2000, as noticed above. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing, as notice above.

Copies of R.61-66 and R.61-70 proposed for repeal before the DHEC Board in a public hearing may be obtained by contacting Ellen Jennings at the Bureau of Land and Waste Management, S.C. Department of Health and

Environmental Control, 2600 Bull Street, Columbia, S.C. 29201, Telephone number (803) 896-4203; Fax number (803) 896-4001.

Preliminary Fiscal Impact Statement:

There will be no cost to the State and its political subdivision regarding repeal of these regulations.

Statement of Need and Reasonableness:

The Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(c)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: Regulation 61-66, Industrial Waste Disposal Site and Facilities, and Regulation 61-70, Sanitary Landfill Design, Construction and Operation.

Purpose: The purpose of this action is to repeal Regulations 61-66 and 61-70. See Determinations of Need and Reasonableness below.

Authority: S.C. Code Sections 44-1-140(11) and 48-1-10 et seq.

Plan for Implementing: None.

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

R.61-66 contains standards for industrial solid waste disposal that are antiquated and obsolete and have effectively been superseded by standards promulgated in Regulations 61-107.11, Solid Waste Management: Construction, Demolition, and Land-Clearing Debris Landfills; 61-107.13, Solid Waste Management: Municipal Solid Waste Incinerator Ash Landfills; 61-107.16, Solid Waste Management: Industrial Solid Waste Landfills; and, 61-107.258, Solid Waste Management: Municipal Solid Waste Landfills.

R.61-70 contains standards for sanitary landfills that are antiquated and obsolete and have effectively been superseded by standards promulgated in Regulations 61-107.11, Solid Waste Management: Construction, Demolition, and Land-Clearing Debris Landfills; 61-107.13, Solid Waste Management: Municipal Solid Waste Incinerator Ash Landfills; 61-107.16, Solid Waste Management: Industrial Solid Waste Landfills; and, 61-107.258, Solid Waste Management: Municipal Solid Waste Landfills.

In the interest of good government and efficiency, repeal of Regulations 61-66 and 61-70 is needed and reasonable because these regulations are no longer effective and have been replaced by other more current solid waste regulations.

DETERMINATION OF COSTS AND BENEFITS:

Cost: Not applicable. There will be no fiscal or economic impact on the State or its political subdivisions and the regulated community by the repeal of Regulations 61-66 and 61-70.

Benefit: Repeal of these antiquated and obsolete regulations will eliminate any confusion as to which solid waste regulations apply and are enforceable.

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UNCERTAINTIES OF ESTIMATES:

The repeal of Regulations 61-66 and 61-70 will not create a burden for the public, the State and its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no environmental or public health effect.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED. There will be no detrimental effect on the environment and public health by repeal of Regulations 61-66 and 61-70.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: 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. 2531
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: Sections 44-7-250 and 44-7-260(A),
South Carolina Code of Laws, 1976, as amended.

R.61-93, Standards For Licensing Outpatient Facilities for Chemically Dependent or Addicted Persons

Preamble:

This proposed amendment will consolidate the standards for all of the alcohol and drug abuse treatment facilities which DHEC now licenses into one regulation; alcohol and drug abuse treatment programs within existing hospitals will continue to be licensed under the hospital regulation (R.61-16). This amendment will revise the regulation in its entirety to include: update and expand definitions; clarify licensing change requirements; update licensing fee amounts; describe inspection reporting requirements; add reference to DHEC consultations; update and clarify classification of standards and enforcement action procedures; enhance quality improvement standards; clarify admission requirements; reword sections related to treatment, services, and care; reword sections regarding client record content and maintenance; update TB screening requirements; add reporting requirements; reword/clarify/enhance client rights requirements; reword sections regarding patient record content and maintenance; enhance existing outpatient standards, to include narcotic treatment programs; and add a severability clause. The proposed amendment will rewrite the regulation in its entirety, to include a title change to "Standards For Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence." See Determination of Need and Reasonableness below.

A Notice of Drafting for this proposed amendment of R.61-93 was published in the State Register on February 25, 2000.

Discussion of Proposed Revisions

TITLE: The title is changed in its entirety to "Standards for Licensing Services and Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence."

PART I includes: a reference listing of Departmental and non-Departmental publications; licensing requirements;

methods used in enforcing regulations, *i.e.*, investigations, inspections, and consultations; reference to the types of enforcement actions which may be taken by the Department, the classifications of violations, range of penalty amounts, and the appeal process; includes staff training and qualifications to comply with applicable federal, state, and local laws and in accordance with professional organizational standards; requirement that direct care staff/volunteers to have no record of abuse, neglect, or mistreatment and not have an existing dependency on psychoactive substances; personnel requirements and updated TB screening procedures; reporting requirements to the Department; client record content and maintenance; transportation; client care/treatment/services; treatment of minors; referral services; client medical and TB screening; medication management; client rights; meal services; infection control and housekeeping; maintenance; emergency procedures/disaster preparedness; fire prevention; quality improvement; design and construction; physical plant requirements; and a severability clause.

PART II contains standards applicable to outpatient facilities.

PART III is applicable to residential treatment programs facilities.

PART IV is applicable to detoxification facilities including social and medical.

Part V is applicable to narcotic treatment program facilities.

Notice of Staff Informational Forum:

The staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a Staff Informational Forum on August 2, 2000, at 1:30 p.m., in the second floor conference room in the Heritage Building at 1777 St. Julian Place, Columbia, S.C. The purpose of this forum is to answer questions, clarify issues, and receive comments from interested persons regarding the proposed regulation. Comments received shall be considered by the staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for 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 forum by writing to Jerry L. Paul, Director, Division of Health Licensing, DHEC, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments for the forum and comment period must be received no later than 4:00 p.m. on August 2, 2000.

Oral and written comments received during the forum comment period shall be considered by the staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for Public Hearing on September 14, 2000, as noticed below. Comments received by the deadline date shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the Public Hearing.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Mr. Jerry L. Paul at the above address.

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

Interested members of the public and regulated community are invited to make oral or written comments regarding the proposed regulation at a Public Hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled Board meeting on September 14, 2000. The Public Hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, 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 agenda is published by the Department

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ten days in advance of the meeting. 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.

Interested persons may also submit written comments during the public comment period by writing to Mr. Jerry L. Paul, Director, Division of Health Licensing, DHEC, 2600 Bull St., Columbia, S.C. 29201: Telephone number (803) 737-7370; Fax number (803) 737-7212. To be considered, written comments must be received before 4:00 p.m. on August 2, 2000. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for Public Hearing on September 14, 2000, as noticed above. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the Public Hearing noticed above.

Copies of the final proposed regulation for consideration at the Public Hearing before the DHEC Board may be obtained by contacting Jerry L. Paul at the above address.

Preliminary Fiscal Impact Statement:

There will be no additional cost to the state and its political subdivisions. Although there will be an increase in licensing fees, costs to the regulated community will still be minimum. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-93, Standards For Licensing Outpatient Facilities for Chemically Dependent or Addicted Persons

This amendment will consolidate the standards for all of the alcohol and drug abuse treatment facilities which DHEC now licenses into one regulation; alcohol and drug abuse treatment programs within existing hospitals will continue to be licensed under the hospital regulation (R.61-16). This amendment will revise the regulation in its entirety to include: update and expand definitions; clarify licensing change requirements; update licensing fee amounts; describe inspection reporting requirements; add reference to DHEC consultations; update and clarify classification of standards and enforcement action procedures; enhance quality improvement standards; clarify admission requirements; reword sections related to treatment, services, and care; reword sections regarding client record content and maintenance; update TB screening requirements; add reporting requirements; reword/clarify/enhance client rights requirements; reword sections regarding patient record content and maintenance; enhance existing outpatient standards, to include narcotic treatment programs; and add a severability clause. The proposed amendment will rewrite the regulation in its entirety, to include a title change to Standards For Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence." See Determination of Need and Reasonableness below.

Legal Authority: The legal authority for R.61-93 is Sections 44-7-250 and 44-7-260(A), South Carolina Code of Laws, 1976, as amended.

Plan for Implementation: The proposed amendment will take effect upon publication in the *State Register* following approval by the Board of Health and Environmental Control and the S.C. General Assembly. 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 AMENDMENT BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

1. The proposed amendment is needed and reasonable because it is necessary to consolidate the standards for all of the alcohol and drug abuse treatment facilities which DHEC now licenses into one regulation; alcohol and drug abuse treatment programs within existing hospitals will continue to be licensed under the hospital regulation (R.61-16).

2. The proposed amendment is needed and reasonable because it will clarify/add to the current regulation in a manner that will improve individual agency methods to provide quality care/treatment/ service to clients.

3. The proposed amendment is needed and reasonable because it will update the current regulation and consolidate all facilities related to the treatment of the chemically dependent or addicted persons into one regulation pursuant to Section 44-7-130(14) of the SC Code as it describes a "Facility for chemically dependent or addicted persons." The revision will meet the mandate of Section 44-7-210 of the SC Code which requires that DHEC "convene a study group to revise and propose licensure standards for methadone clinics," thus ultimately, with the promulgation of the revised standards, permit the issuance of a Certificate of Need by DHEC for new methadone clinics.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional cost to the state and its political subdivisions as the facilities consolidated into this regulation are currently already being inspected, investigated, and subsequently licensed. Although there will be an increase in licensing fees, costs to the regulated community will still be minimum.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect on the environment. The revision will promote public health by encouraging local solutions to local problems (more emphasis on facility policies and procedures/quality improvement).

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: There will be no adverse effect on the public health if the revision is not implemented. However, there will be an adverse effect on the Department's ability to properly regulate those facilities which are currently licensed under R.61-84, as that regulation does not appropriately address standards which are specific to alcohol and drug abuse treatment. In addition, this revision is a necessary ingredient to a Certificate of Need process for new narcotic treatment programs.

Text:

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

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Document No. 2532
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-96-260,
44-96-290, 44-96-300, 44-96-310, 44-96-360, and 44-96-450

R.61-107. __ Solid Waste Management: Off-site Treatment of Contaminated Soil

Preamble:

The Department proposes a new regulation that establishes minimum standards for the site selection, design, operation, and closure of facilities treating contaminated soil which is not hazardous waste as defined by Resource Conservation and Recovery Act (RCRA) and R.61-79, Hazardous Waste Management Regulations that has been excavated and is being treated off-site. The regulation will allow and encourage the recycling/treatment of contaminated soil in lieu of landfilling. This regulation is not applicable to in-situ treatment of contaminated soil, on-site ex-situ treatment of contaminated soil, nor treatment of soil contaminated with hazardous waste.

Notices of Drafting for the proposed new regulation were published in the State Register on May 28, 1999, and again on March 24, 2000.

Discussion:

Section A: Addresses the purpose of the regulation and its applicability.

Section B: Addresses definitions of words/phases that are used in the regulation.

Section C: Addresses the general requirements for the off-site treatment of contaminated soil.

Section D: Addresses the Department's administrative review of all permit applications which is the first phase of the Department's review. The public notification procedure, and submittal requirements for the permit applicant are outlined in this section.

Section E: Addresses the Department's technical review of plans and specifications and outlines siting requirements, and facility layout requirements and design criteria.

Section F: Addresses standards for soil treatment and defines three classes of contaminated soil.

Section G: Addresses monitoring and reporting requirements.

Section H: Addresses closure and post-closure procedures for soil treatment facilities.

Section I: Addresses violations, penalties, and appeals.

Section J: Addresses severability of any part of the regulation.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites members of the public and regulated community to attend a staff-conducted informational forum to be held on July 25, 2000 at 2:00 p.m. in Peoples Auditorium, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The purpose of the forum is to answer questions, clarify issues and receive comments from interested persons on the proposed new regulation that addresses off-site treatment of contaminated soil. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for public hearing scheduled pursuant to S.C. Code Ann. Section 1-23-110 and 1-23-111, as noticed below.

Interested persons are also provided an opportunity to submit written comments to the staff forum by writing to Art Braswell, Bureau of Land and Waste Management, S.C. DHEC, 2600 Bull Street, Columbia, S.C. 29201. Written comment must be received no later than 5:00 p.m. on July 25, 2000. Comments received at the forum and by mail by the deadline shall be considered by the staff in formulating the final draft proposed regulation for submission to the Board for public hearing on October 12, 2000. Comments received from the forum and comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the text of the proposed regulation for public notice and comment may be obtained by contacting Ellen Jennings at the Bureau of Land and Waste Management, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C., in person at 8901 Farrow Road, Columbia, S.C., or by telephone number at (803) 896-4203.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed off-site treatment of contaminated soil regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on October 12, 2000. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items in the order presented on its agenda. The agenda is published by the Department ten (10) days in advance of the meeting. Persons who wish to make oral comments at the hearing are asked to limit their statements to five (5) minutes and, as a courtesy, are asked to provide written comments of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Ellen Jennings at the Bureau of Land and Waste Management, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201, in person at 8901 Farrow Road, Columbia, S.C., or by FAX (803) 896-4001. Written comments must be received no later than 5:00 p.m. on July 25, 2000. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on October 12, 2000, as noticed above. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the final proposed regulation for public hearing before the DHEC Board may be obtained by contacting Ellen Jennings at the above address.

Preliminary Fiscal Impact Statement:

Staff estimates that there will be minimal cost to the state and its political subdivisions.

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Statement of Need and Reasonableness:

The statement of need and reasonableness was determined based on staff analysis pursuant to S.C. Code Section 1-23-115(c)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: A new regulation that addresses the off-site treatment of contaminated soil.

Purpose: The purpose of this regulation is to establish minimum standards for the site selection, design, operation, and closure of facilities treating soil which is classified as non-hazardous waste that has been excavated and is being treated off-site. This regulation will encourage the recycling/treatment of contaminated soil in lieu of landfilling.

Legal Authority: This regulation is authorized by S.C. Code Sections 44-96-260, 44-96-290, 44-96-300, 44-96-310, 44-96-360, and 44-96-450 (1991)

Plan for Implementation: The proposed regulation, as amended through public comment and Department response, would be incorporated within R.61-107, Solid Waste Management upon approval of the General Assembly and publication in the State Register. The proposed regulation will be implemented in the same manner in which other regulations are implemented.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT: This regulation is needed to allow the option of off-site treatment of contaminated soil and to ensure the activity is conducted in such a manner as to protect health and the environment. A traditional option for dealing with contaminated soil is landfilling. This regulation will establish criteria for treating contaminated soil that, in many cases, can return this soil to a usable form. Landfilling contaminated soil results in transferring contaminated material from one location to another, and does not permanently reduce pollution. This regulation will ensure that treatment of contaminated soil is conducted in an environmentally safe manner.

A workgroup, comprised of technical representatives from S.C. industries, Savannah River Site, a private consulting firm, and Department staff developed the criteria on which the regulation is based. Readily available data on treatment will be utilized as well as allowing for innovative approaches regarding treatment of contaminated soil. This regulation is reasonable because it requires the basics that are needed to ensure protection of health and the environment while allowing a cost effective mechanism for eliminating or diminishing contamination and restoring soil to a beneficial and usable state.

DETERMINATION OF COSTS AND BENEFITS: Costs of compliance with this regulation include engineering costs associated with preparation of a permit application containing detailed plans and specifications of a proposed facility and preparation of an operating manual. Entities operating such facilities must also provide for financial assurance. For those entities which can self-insure, these costs will be minimal. For commercial operations, these are necessary operational costs.

For non-commercial operations, these costs will replace the cost of landfilling which is becoming more expensive because of rising transportation and landfill fees. The costs of landfilling can multiply further because of the potential liability and legal issues associated with landfilled soil. In most cases, treatment of contaminated soil is certainly advantageous environmentally.

UNCERTAINTIES OF ESTIMATES: The Department is unable to estimate these costs with precision, particularly since the size, design, and treatment method of such facilities may vary widely.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The treatment of contaminated soil is appropriate in many cases. Scientific evidence shows that contaminated soil can frequently be treated and returned to a usable state with no harmful effects to health and the environment when regulations and guidelines are followed. Regulation requirements concerning treatment ensure public and environmental interests are well protected. The regulation requires that buffers be maintained between treatment facilities and residences, wells, surface waters, schools, churches, day-care centers, hospitals, publicly owned recreational parks, property lines, and the water table.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The detrimental effect of not implementing this regulation is that soil that could be treated and returned to a usable state will be landfilled. Landfilling this soil means moving the contamination from one area to another area and taking up valuable landfill space. Landfilled contaminated soil also carries with it liabilities if future problems/contamination occur in the landfill. Also, failure to establish minimum standards for treating contaminated soil would likely result in some facilities operating without regard to health and the environment.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: 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. 2533
SOUTH CAROLINA LAW ENFORCEMENT DIVISION
CHAPTER 73
Statutory Authority: 1976 Code Section 23-3-130

Preamble:

The South Carolina Law Enforcement Division proposes to revise Regulation 73, Article 3, concerning the Criminal Justice Information System. Regulation 73, Article 3, has not been revised since 1983. This revision will add proper definitions of non-conviction data, update the organizational description for the crime information component of SLED, will make record dissemination rules consistent with statutes, and correct the address given for the Criminal Justice Information System division of the Federal Bureau of Investigation.

Notice of Drafting for these revisions was published in the *State Register* on April 28, 2000. Comments were solicited for consideration in drafting the proposed revisions.

NOTICE OF PUBLIC HEARING AND OPPORTUNITY FOR PUBLIC COMMENT:

Interested members of the public and related community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the South Carolina Law Enforcement Division on August 7, 2000 at 2:00 p.m. at the Administrative Law Judge Division, Edgar Brown Building, 2nd Floor, Suite 224, 1205 Pendleton Street, Columbia, S.C. The hearing will commence at 2:00 p.m. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation to Major Mark Huguley at the South Carolina Law Enforcement Division, Criminal Justice Information System, P.O. Box 21398, Columbia, SC, 29221-1398, or by calling (803)896-7142. Comments must be received no later than 4:00 p.m. on Monday, July 24, 2000.

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Preliminary Fiscal Impact Statement:

The Division does not anticipate any fiscal impact with the implementation of this Regulation.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Regulation 73, Article 3, Criminal Justice Information System

Purpose: Regulation 73, Article 3, Criminal Justice Information System, is revised to add proper definitions of non-conviction data, update the organizational description for the crime information component of SLED, will make record dissemination rules consistent with statutes, and correct the address given for the Criminal Justice Information System division of the Federal Bureau of Investigation.

Legal Authority: The legal authority for Regulation 73, Article 3, is Section 23-3-130, S.C. Code of Laws.

Plan for Implementation: The proposed regulation revisions will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulation will update and clarify the existing Chapter 73, Article 3 regulations.

DETERMINATION OF COSTS AND BENEFITS: No additional costs are anticipated. The regulation is expected to benefit public safety administratively by updating and clarifying the existing regulations.

UNCERTAINTIES OF ESTIMATES: No certain and quantifiable results can be attributed to the implementation of this regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation is expected to have no effect on the environment or on public health.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: There are no expected detrimental effects on the environment or 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. If you do not have access to the Internet, the text may be obtained from the promulgating agency.

Filed: June 8, 2000, 4:50 pm

Document No. 2529

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
COMMISSIONERS OF PILOTAGE FOR THE PORT OF CHARLESTON
CHAPTER 136**

Statutory Authority: 1976 Code Section 54-15-120

Emergency Situation:

S.C. Code. Section 54-15-270 requires that all vessels entering the pilotage area of the port of Charleston must have on board a pilot licensed by the Commissioners of Pilotage for the Port of Charleston. The port of Charleston will host scheduled visits by 26 "tall ships" beginning June 16, 2000. Commercial ships must also be provided with pilots during this period. There are not enough fully licensed pilots for the port of Charleston to meet the requirements of the law for this period.

Text:

136-18. Temporary Restricted Licenses.

A. The Commissioners of Pilotage may issue a temporary, restricted license to any certified Apprentice Pilot who has completed at least twenty-four (24) months of his or her three-year term of apprenticeship, provided:

(1) Such apprentice has been recommended by a majority of licensed pilots for restricted licensure as a marine pilot, for the bar and harbor of Charleston; and

(2) Said license shall be restricted to include only vessels of 1600 gross registered tons or less with drafts of less than 20 feet; and

(3) Such license under no circumstances shall be valid beyond the date the holder of such a license ceases to be a Certified Apprentice Pilot.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: to provide safe vessel movement in the Charleston harbor during a period of unusual traffic.

Legal Authority: 1976 Code Title 54, Chapter 15, Section 120

Plan for Implementation: The Commissioners of Pilotage for the Port of Charleston will issue temporary restricted licenses to current apprentices who have completed at least twenty-four (24) months of an apprenticeship and who otherwise qualify. No additional personnel or funds should be necessary.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The cost to the port of Charleston of delays in vessel movement due to a shortage of pilots would be high. The risk to safety of persons and cargo from the use of apprentice pilots on small vessels during the period of unusual traffic would be low.

DETERMINATION OF COSTS AND BENEFITS: The emergency regulation will present no costs to the State of South Carolina.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates concerning this regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation will have no effect on the environment and public health of this State. It will protect the public safety.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH OF THE REGULATIONS IS NOT IMPLEMENTED: There will be no detrimental effect on the environment and public health of this State if the regulations are not implemented in this State.

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Document No. 2483
DEPARTMENT OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. Section 59-5-60(1) (1990) and
S.C. Code Ann. Section 59-26-10, *et seq.* (Supp. 1998)

R43-205.1. Assisting, Developing, and Evaluating Professional Teaching (ADEPT).

Synopsis:

In 1998, the State Board of Education adopted regulations implementing ADEPT. Comments were received from educators during the pilot year (1997-98) and the first year of full implementation (1998-99). The State Board of Education is proposing amendments to the regulation that address the following concerns expressed by educators: (1) Add flexibility to the evaluation requirements for teachers employed from out of state. (2) Add specifications for the composition of evaluation teams. (3) Specify a date for notifying continuing contract teachers of a recommendation for formal evaluation.

Instructions: R43-205.1 is amended, replaced in its entirety, and should read as follows.

Text:

R43-205.1 Assisting, Developing, and Evaluating Professional Teaching (ADEPT)

I. State Standards (ADEPT Performance Dimensions) of Professional Teaching

All college, university, and school district programs designed to assist, develop, and evaluate teachers must address, but are not limited to, the ADEPT Performance Dimensions (PDs). These dimensions include:

- Long-Range-Planning
- Short-Range-Planning of Instruction
- Short-Range-Planning, Development, and Use of Assessments
- Establishing and Maintaining High Expectations for Learners
- Using Instructional Strategies to Facilitate Learning
- Providing Content for Learners
- Monitoring and Enhancing Learning
- Maintaining an Environment That Promotes Learning
- Managing the Classroom
- Fulfilling Professional Responsibilities Beyond the Classroom

The South Carolina System for Assisting, Developing, and Evaluating Professional Teaching Performance Dimensions, which include the Dimension Descriptions and the Competent Performance Descriptions, are available from the State Department of Education through the Office of Teacher Education, Certification and Evaluation.

II. Student Teachers

A. All teacher education programs must adhere to regulations governing evaluating and assisting student teachers specified in the Unit Standards for Teacher Education Program Approval in South Carolina.

B. All teacher education programs are to develop or select a process for evaluating and assisting prospective teachers during their student teaching assignments. Such processes must be approved by the State Board of Education and must include, but are not limited to:

1. An orientation session which provides student teachers with written and oral explanations of the student teaching assignment, the evaluation and assistance process, and how evaluation results will be determined and used.
2. A training program which provides all teacher education faculty and public school personnel who supervise student teachers with the knowledge and skills necessary to fulfill their respective roles in the evaluation and assistance process. At a minimum, training programs are to provide supervisors of student teachers with in depth knowledge of the ADEPT Performance Dimensions, the knowledge and skills necessary to collect and document information related to performance in each dimension, the knowledge and skills necessary to identify strengths and weaknesses in performance relative to the expectations for each dimension, and the knowledge and skills necessary to counsel, coach, and assist student teachers during their assignment.
3. Appropriate procedures for regularly collecting and documenting information on the performance of student teachers in each ADEPT Performance Dimension.
4. Appropriate procedures for providing student teachers with comprehensive feedback on and assistance with their performance in each ADEPT Performance Dimension throughout the student teaching assignment.
5. Appropriate procedures for providing student teachers with a formal written summary of their performance in each Performance Dimension, as well as an overall rating of their performance during their student teaching assignment. The written summary and overall rating must reflect a consensus of the teacher education faculty and public school personnel assigned to evaluate and assist the student teacher.
6. Procedures for documenting, evaluating, and continuously improving the student teacher evaluation and assistance process. Evaluations of the process must include, but are not limited to, feedback from teacher education faculty and public school personnel who supervise student teachers, as well as feedback from student teachers.
7. The State Department of Education will provide to colleges and universities ongoing technical assistance in the form of training, consultation and advisement as requested. All teacher education programs are to submit revisions and/or amendments to their process for evaluating and assisting prospective teachers during their student teaching assignments to the State Department of Education no later than February 1 each year. Review teams, composed of representatives from colleges, universities and school districts, will provide feedback regarding amendments to plans so modifications can be made to existing programs. By July 1 of each school year, the State Department of Education will provide colleges and universities information regarding the success of teachers employed under induction contracts.

III. Induction Contract Teachers

A. Teachers who possess a valid South Carolina teaching certificate and have less than one year of public school teaching experience may be employed under a one year nonrenewable induction contract, provided the date of employment allows the teacher to be employed for at least 152 days of full time teaching. Teachers may be employed on only one induction contract. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under induction contracts.

B. Beginning with the 1998-99 school year, all teachers employed under an induction contract must participate in an Induction Program designed or selected by the local district to provide teachers with comprehensive guidance and assistance throughout the school year. Such programs must be approved by the State Board of Education and must include, but are not limited to:

1. A comprehensive orientation session. At a minimum, the orientation session must include: (1) written and oral explanations of the Induction Program requirements, procedures, and activities; (2) written and oral

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explanations of all relevant district and school policies, operations, and resources; (3) information about teacher oriented and student oriented services available in the district, school, and community; (4) information concerning the social, cultural, and economic characteristics of the community being served by the school; (5) written and oral explanations of the ADEPT Performance Dimensions; and (6) written and oral explanations of locally established criteria or requirements for successfully completing the induction contract year.

2. Procedures for assigning each induction contract teacher an assistance team which will provide and coordinate guidance and support for the teacher throughout the school year. At a minimum, assistance teams are to include a mentor teacher and a building administrator.

3. Procedures for assuring that all assistance team members receive appropriate training which provides them with the knowledge and skills necessary to fulfill their respective roles in the Induction Program. At a minimum, training programs are to provide assistance team members with in depth knowledge of the ADEPT Performance Dimensions, the knowledge and skills necessary to collect and document information related to performance in each dimension, the knowledge and skills necessary to identify strengths and weaknesses in performance relative to the Competent Performance Description for each dimension, and the knowledge and skills necessary to counsel, coach, and assist teachers during their induction contract period.

4. Procedures to assure that assistance team members observe and consult with their assigned teachers on a regular basis throughout the school year. Observations and/or consultations should occur regularly and consistently. It is strongly recommended that these meetings should occur at least once per month.

5. Procedures to assure that induction contract teachers observe and/or consult with a variety of experienced teachers throughout the school year. Observations and/or consultations should occur regularly and consistently. It is strongly recommended that these meetings should occur at least once per month.

6. Procedures to assure that all induction contract teachers within a school and/or district meet as a group to share information, ideas, and suggestions about teaching. These meetings should occur regularly and consistently. It is strongly recommended that these meetings should occur at least once per month.

7. Procedures for providing induction contract teachers with formal written and oral feedback on their performance in each ADEPT Performance Dimension during the fall. The feedback must be provided before the December holiday break.

8. Procedures for providing induction contract teachers with formal written and oral feedback on their performance in each ADEPT Performance Dimension during the spring. The feedback must be provided before April 15.

9. Procedures for documenting, evaluating, and continuously improving the Induction Program. Evaluations of the program must include, but are not limited to, feedback from assistance team members and induction contract teachers.

C. By November 1 of each school year, school districts must provide the State Department of Education with a list of all teachers employed under induction contracts. This information will be used by the State Department of Education to provide flow through funds for school districts.

D. School districts must establish criteria or requirements that are to be met by teachers to successfully complete the induction contract year. At a minimum, these requirements must include successful completion of the locally designed induction program.

E. Teachers employed under induction contracts are to be notified in writing of their employment status for the next school year by April 15. Teachers who successfully complete the induction contract year, as determined by the local district, are eligible for employment at the annual contract level. At the discretion of the school district, these teachers may be employed under an annual contract or released from employment. A teacher who is released may seek employment in another school district at the annual contract level.

F. Teachers who do not successfully complete the induction contract year, as determined by the local district, are eligible for employment under a one-year nonrenewable provisional contract. At the discretion of the school district, the teacher may be employed under a provisional contract or released from employment. A teacher who is released may seek employment in another school district at the provisional contract level.

G. By June 20 of each school year, school districts must report to the State Department of Education on the success of teachers employed under induction contracts and the employment contract decisions made for the following year.

H. The State Department of Education will provide to school districts ongoing technical assistance in the form of training, consultation and advisement as requested. All school districts are to submit revisions and/or amendments to their process for evaluating and assisting teachers during their induction contract teaching assignments to the State Department of Education no later than May 1 each year. Review teams, composed of representatives from colleges, universities and school districts, will provide feedback regarding amendments to plans so modifications can be made to existing programs. By July 1 of each school year, the State Department of Education will provide colleges and universities information regarding the success of teachers employed under induction contracts.

IV. Provisional Contract Teachers

A. Teachers who have completed an induction contract year, but did not meet all locally established criteria or requirements for success, may be employed under a one-year nonrenewable provisional contract. This is provided the date of employment allows the teacher to be employed for at least 152 days of full time teaching. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under provisional contracts.

B. Teachers employed under a provisional contract must be formally evaluated with a process designed or selected by the local district. Beginning with the 1998-99 school year, the formal evaluation process must include, but is not limited to, an assessment of a teacher's typical performance for the school year in each ADEPT Performance Dimension. School districts not using the Team-Based Evaluation and Assistance Model (TEAM) to conduct formal evaluations, must have State Board of Education approval of their locally designed evaluation process. These processes must include, but are not limited to:

1. A comprehensive orientation session for all teachers scheduled for evaluation. At a minimum, orientation sessions must include written and oral explanations of the ADEPT Performance Dimensions, the evaluation process, and the intended use of the evaluation results.

2. Procedures for assigning evaluators to complete the evaluation process for each teacher scheduled to be evaluated. All evaluators must have successfully completed an appropriate evaluator training program specifically designed for the evaluation process. At a minimum the evaluation team must include a building administrator and one other trained evaluator matched as closely as possible to the teacher being evaluated regarding experiences in grade range, certification, and/or subject area.

3. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's long-range-planning (PD 1). Documentation must include specific examples of the teacher's performance. At a minimum, these procedures must require an initial review of a teacher's long-range plan, periodic reviews of any adjustments made to the plan, and reviews of progress toward completing the plan.

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4. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical short-range-planning (PDs 2-3). Documentation must include specific examples of the teacher's performance. Information on short-range-planning must be collected and documented during both the fall and spring semesters.

5. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical classroom performance (PDs 4-9). Documentation must include specific examples of the teacher's performance. Observations, which are to be unannounced, must be conducted by each evaluator during both the fall and spring semesters.

6. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical performance of professional responsibilities beyond the classroom (PD 10). These responsibilities must include activities or tasks assigned by the building administrator in the form of an individualized professional growth plan which supports district strategic plans and/or school renewal plans. Documentation must include specific examples of the teacher's performance. Information must be collected and documented during both the fall and spring semesters.

7. Procedures to be used by evaluators to make preliminary evaluation judgments about a teacher's typical performance during the fall semester. These judgments must be made prior to the December holiday break. Evaluation judgments are to be made for each Performance Dimension and must reflect a consensus among the evaluators based on a comparison of their collective evidence with the expectations described by the Competent Performance Description for each dimension. Judgments on the Performance Dimensions must be used to make an overall preliminary evaluation judgment based on guidelines established by the local district. Preliminary evaluation judgments for each dimension must be documented and are to include a rationale with supporting evidence and recommendations for improving or enhancing performance. If a teacher's typical performance at the mid year point does not meet the overall standard required by the district, evaluators must also insure that a formal written remediation plan is developed for the teacher.

8. Procedures to be used by evaluators for conducting preliminary evaluation conferences with teachers being evaluated. Conferences must be held prior to the December holiday break. During the conference, which should be attended by each evaluator (at the discretion of the principal), teachers must be provided with written documentation (using the approved form, for example, the Preliminary Evaluation Consensus Report form or the Preliminary Evaluation Summary form) of the evaluation results for the fall semester, an oral explanation of the results and suggestions for improving or enhancing performance, and a written remediation plan, if appropriate.

9. Procedures to be used by evaluators to make final evaluation judgments about a teacher's typical performance during the school year. These judgments must be made by April 15. Evaluation judgments are to be made for each Performance Dimension and must reflect a consensus among the evaluators based on a comparison of their collective evidence with the expectations described by the Competent Performance Description for each dimension. Judgments on the Performance Dimensions must be used to make an overall final evaluation judgment based on guidelines established by the local district. Final evaluation judgments for each dimension must be documented and are to include a rationale with supporting evidence and recommendations for improving or enhancing performance.

10. Procedures to be used by evaluators for conducting final evaluation conferences with teachers being evaluated. During the conference, which should be attended by each evaluator (at the discretion of the principal), teachers must be provided with written documentation of the evaluation results for the school year, as well as an oral explanation of the results and suggestions for improving or enhancing performance.

C. All locally developed or selected formal evaluation processes must address the general technical criteria of validity, reliability, maximum freedom from bias, and documentation. Guidelines which further define these criteria are available from the State Department of Education.

D. School districts must establish criteria or requirements that are to be met by teachers to successfully complete the provisional contract year. At a minimum, these requirements must include successful completion of the formal evaluation process.

E. Teachers employed under provisional contracts are to be notified in writing of their employment status for the next school year by April 15. Teachers who successfully complete the provisional contract year, as determined by the local district, are eligible for employment at the annual contract level. At the discretion of the school district, these teachers may be employed under an annual contract or released from employment. A teacher who is released may seek employment in another school district at the annual contract level.

F. Teachers who did not successfully complete the provisional contract year may not be employed as a teacher in any school district until they complete six hours of credit for recertification and six hours of credit to remediate problems with performance identified in the evaluation process. School districts must notify the State Department of Education, in writing, of any teachers who did not successfully complete their provisional contract year. Teachers who wish to pursue this opportunity for reentry into the profession must submit to the State Department of Education a copy of their evaluation results and a list of the courses to be completed. Once approved, the courses may be completed on a timeline established by the teacher. Before becoming eligible for employment the teacher must provide a copy of a transcript indicating successful completion of the courses. Teachers who reenter the profession in this manner are eligible for employment under one more provisional contract. The provision for re entry into teaching, granted by this section, is available to a teacher only once.

G. By June 20 of each school year, school districts must report to the State Department of Education on the success of teachers employed under provisional contracts and the employment contract decisions made for the following year.

H. The State Department of Education will provide to school districts ongoing technical assistance in the form of training, consultation and advisement as requested. All school districts will submit any revisions and/or amendments to their process for evaluating and assisting teachers during their provisional contract teaching assignments to the State Department of Education no later than May 1 each year. Review teams, composed of representatives from colleges, universities and school districts, will provide feedback regarding amendments to plans so modifications can be made to existing programs.

V. Annual Contract Teachers

A. Teachers who have successfully completed an induction contract year or successfully completed a provisional contract year, may be employed under an annual contract. Teachers from out of state who have one or more years of public school teaching experience and who meet all requirements for certification in South Carolina may be employed under an induction or annual contract at the discretion of the school district. This is provided the date of employment allows the teacher to be employed for at least 152 days of full time teaching. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under annual contracts. Teachers working under an annual contract who are not recommended for reemployment at the end of the year may have an informal hearing before the district superintendent. The superintendent shall schedule the hearing no sooner than seven nor later than thirty (30) working days after he receives a request from the teacher for a hearing. At the hearing, all of the evidence must be reviewed by the superintendent. The teacher may provide such information, testimony, or witnesses as the teacher considers necessary. The decision by the superintendent must be given in writing within twenty (20) days of the hearing. The teacher may appeal the superintendent's decision to the school district board of trustees. Any appeal shall include: (1) a brief statement of the questions to be presented to the board; and (2) a brief statement in which the teacher states his belief about how the superintendent erred in his judgment. Failure to file such an appeal with the board within ten days of the receipt of the superintendent's decision shall cause the decision of the superintendent to become the final judgment in the matter. The Board of Trustees shall review all the materials presented at the earlier hearing, and after

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examining these materials the Board may or may not grant the request for a board hearing of the matter. Written notice of the board's decision on whether or not to grant the request must be rendered within thirty-five (35) calendar days of the receipt of the request. If the board determines that a hearing is warranted, the teacher must be given written notice of the time and place of the hearing which must be set no sooner than seven (7) or later than fifteen (15) days from the time of the board's determination to hear the matter. The decision of the board is final.

B. All teachers employed under an annual contract must be formally evaluated with a process designed or selected by the local district. Beginning with the 1998-99 school year, the formal evaluation process must include, but is not limited to, an assessment of a teacher's typical performance for the school year in each ADEPT Performance Dimension. School districts not using the Team-Based Evaluation and Assistance Model (TEAM) to conduct formal evaluations, must have State Board of Education approval of their locally designed evaluation process. These processes must include, but are not limited to:

1. A comprehensive orientation session for all teachers scheduled for evaluation. At a minimum, orientation sessions must include written and oral explanations of the ADEPT Performance Dimensions, the evaluation process, and the intended use of the evaluation results.

2. Procedures for assigning evaluators to complete the evaluation process for each teacher scheduled to be evaluated. All evaluators must have successfully completed an appropriate evaluator training program specifically designed for the evaluation process. At a minimum the evaluation team must include a building administrator and one other trained evaluator matched as closely as possible to the teacher being evaluated regarding experiences in grade range, certification, and/or subject area.

3. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's long-range-planning (PD 1). Documentation must include specific examples of the teacher's performance. At a minimum, these procedures must require an initial review of a teacher's long-range plan, periodic reviews of any adjustments made to the plan, and reviews of progress toward completing the plan.

4. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical short-range-planning (PDs 2-3). Documentation must include specific examples of the teacher's performance. Information on short-range-planning must be collected and documented during both the fall and spring semesters.

5. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical classroom performance (PDs 4-9). Documentation must include specific examples of the teacher's performance. Observations, which are to be unannounced, must be conducted by each evaluator during both the fall and spring semesters.

6. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical performance of professional responsibilities beyond the classroom (PD 10). These responsibilities must include activities or tasks assigned by the building administrator in the form of an individualized professional growth plan which supports district strategic plans and/or school renewal plans. Documentation must include specific examples of the teacher's performance. Information must be collected and documented during both the fall and spring semesters.

7. Procedures to be used by evaluators to make preliminary evaluation judgments about a teacher's typical performance during the fall semester. These judgments must be made prior to the December holiday break. Evaluation judgments are to be made for each Performance Dimension and must reflect a consensus among the evaluators based on a comparison of their collective evidence with the expectations described by the Competent Performance Description for each dimension. Judgments on the Performance Dimensions must be used to make an overall preliminary evaluation judgment based on guidelines established by the local district. Preliminary evaluation judgments for each dimension must be documented and are to include a rationale with supporting evidence and recommendations for improving or enhancing performance. If a teacher's typical performance at the mid year point

does not meet the overall standard required by the district, evaluators must also insure that a formal written remediation plan is developed for the teacher.

8. Procedures to be used by evaluators for conducting preliminary evaluation conferences with teachers being evaluated. Conferences must be held prior to the December holiday break. During the conference, which should be attended by each evaluator (at the discretion of the principal), teachers must be provided with written documentation (using the approved form, for example, the Preliminary Evaluation Consensus Report form or the Preliminary Evaluation Summary form) of the evaluation results for the fall semester, an oral explanation of the results and suggestions for improving or enhancing performance, and a written remediation plan, if appropriate.

9. Procedures to be used by evaluators to make final evaluation judgments about a teacher's typical performance during school year. These judgments must be made by April 15. Evaluation judgments are to be made for each Performance Dimension and must reflect a consensus among the evaluators based on a comparison of their collective evidence with the expectations described by the Competent Performance Description for each dimension. Judgments on the Performance Dimensions must be used to make an overall final evaluation judgment based on guidelines established by the local district. Final evaluation judgments for each dimension must be documented and are to include a rationale with supporting evidence and recommendations for improving or enhancing performance.

10. Procedures to be used by evaluators for conducting final evaluation conferences with teachers being evaluated. During the conference, which should be attended by each evaluator (at the discretion of the principal), teachers must be provided with written documentation of the evaluation results for the school year, as well as an oral explanation of the results and suggestions for improving or enhancing performance.

C. All locally developed or selected formal evaluation processes must address the general technical criteria of validity, reliability, maximum freedom from bias, and documentation. Guidelines which further define these criteria are available from the State Department of Education.

D. School districts must establish criteria or requirements that are to be met by teachers to successfully complete an annual contract year. At a minimum, these requirements must include successful completion of the formal evaluation process.

E. Teachers employed under annual contracts are to be notified in writing of their employment status for the next school year by April 15. Teachers who successfully complete their first annual contract year, as determined by the local district, are eligible for employment at the continuing contract level. At the discretion of the school district, these teachers may be employed under a continuing contract or released from employment. A teacher who is released may seek employment in another school district. At the discretion of the next hiring school district, the teacher may be employed under a second annual contract or a continuing contract.

F. Teachers who do not successfully complete their first annual contract year, as determined by the local district, are eligible for employment under a second annual contract. At the discretion of the school district, the teacher may be employed under a second annual contract or released from employment. A teacher who is released may seek employment in another school district under a second annual contract.

G. Teachers employed under a second annual contract must be formally evaluated with a process designed or selected by the local district in accordance with this section.

H. Teachers who successfully complete their second annual contract year, as determined by the local district, are eligible for employment at the continuing contract level. At the discretion of the school district, these teachers may be employed under a continuing contract or released from employment. A teacher who is released may seek employment in another school district at the continuing contract level.

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I. Teachers who do not successfully complete their second annual contract year may not be employed as a public school teacher in South Carolina for a minimum of two years. School districts must notify the State Department of Education, in writing, of any teachers who did not successfully complete their second annual contract year. Such teachers who wish to reenter the teaching profession must complete six hours of credit for recertification and six hours of credit to remediate problems with performance identified in the evaluation process. Teachers who pursue this option must submit to the State Department of Education a copy of their evaluation results and a list of the courses to be completed. Once approved, the courses may be completed on a timeline established by the teacher. Before becoming eligible for employment the teacher must provide a copy of a transcript indicating successful completion of the courses. Teachers who reenter the profession in this manner are eligible for employment for up to two more annual contract years. The provision for re entry into teaching granted by this section is available to a teacher only once.

J. By June 20 of each school year, school districts must report to the State Department of Education on the success of teachers employed under annual contracts and the employment contract decisions made for the following year.

K. The State Department of Education will provide to school districts ongoing technical assistance in the form of training, consultation and advisement as requested. All school districts will submit any revisions and/or amendments to their process for evaluating and assisting teachers during their annual contract teaching assignments to the State Department of Education no later than May 1 each year. Review teams, composed of representatives from colleges, universities and school districts, will provide feedback regarding amendments to plans so modifications can be made to existing programs.

VI. Continuing Contract Teachers

A. Teachers who have successfully completed an annual contract year may be employed under a continuing contract. Teachers employed under continuing contracts have full procedural rights relating to employment and dismissal as provided for in Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws.

B. Teachers employed under continuing contracts must be evaluated at least once every three years. The evaluation may be formal or informal, at the discretion of the district, based on an individual teacher's needs and previous performance. A formal evaluation must be conducted if there are concerns about a teacher's performance or if an employment decision may need to be made. Continuing Contract teachers must be notified in writing before the end of the current school year but no later than May 15, if they are being recommended for formal evaluation during the next school year. An informal evaluation should be conducted if a teacher consistently performs at levels commensurate with the expectations of the ADEPT Performance Dimensions. An informal evaluation could be goal based.

C. School districts must establish criteria or requirements that are to be met by teachers to successfully complete an evaluation at the continuing contract level.

D. Continuing contract teachers being formally evaluated must be evaluated with a process designed or selected by the local district. Beginning with the 1998-99 school year, the formal evaluation process must include, but is not limited to, an assessment of a teacher's typical performance for the school year in each ADEPT Performance Dimension. School districts not using the Team-Based Evaluation and Assistance Model (TEAM) to conduct formal evaluations, must have State Board of Education approval of their locally designed evaluation process. At a minimum the evaluation team must include a building administrator and one other trained evaluator matched as closely as possible to the teacher being evaluated regarding experiences in grade range, certification, and/or subject area. These processes must include, but are not limited to:

1. A comprehensive orientation session for all teachers scheduled for evaluation. At a minimum, orientation sessions must include written and oral explanations of the ADEPT Performance Dimensions, the evaluation process, and the intended use of the evaluation results.

2. Procedures for assigning evaluators to complete the evaluation process for each teacher scheduled to be evaluated. All evaluators must have successfully completed an appropriate evaluator training program specifically designed for the evaluation process.

3. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's long-range-planning (PD 1). Documentation must include specific examples of the teacher's performance. At a minimum, these procedures must require an initial review of a teacher's long-range plan, periodic reviews of any adjustments made to the plan, and reviews of progress toward completing the plan.

4. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical short-range-planning (PDs 2-3). Documentation must include specific examples of the teacher's performance. Information on short-range planning must be collected and documented during both the fall and spring semesters.

5. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical classroom performance (PDs 4-9). Documentation must include specific examples of the teacher's performance. Observations, which are to be unannounced, must be conducted by each evaluator during both the fall and spring semesters.

6. Procedures to be used by each evaluator for collecting and documenting information related to a teacher's typical performance of professional responsibilities beyond the classroom (PD 10). These responsibilities must include activities or tasks assigned by the building administrator in the form of an individualized professional growth plan which supports district strategic plans and/or school renewal plans. Documentation must include specific examples of the teacher's performance. Information must be collected and documented during both the fall and spring semesters.

7. Procedures to be used by evaluators to make preliminary evaluation judgments about a teacher's typical performance during the fall semester. These judgments must be made prior to the December holiday break. Evaluation judgments are to be made for each Performance Dimension and must reflect a consensus among the evaluators based on a comparison of their collective evidence with the expectations described by the Competent Performance Description for each dimension. Judgments on the Performance Dimensions must be used to make an overall preliminary evaluation judgment based on guidelines established by the local district. Preliminary evaluation judgments for each dimension must be documented and are to include a rationale with supporting evidence and recommendations for improving or enhancing performance. If a teacher's typical performance at the mid year point does not meet the overall standard required by the district, evaluators must also insure that a formal written remediation plan is developed for the teacher.

8. Procedures to be used by evaluators for conducting preliminary evaluation conferences with teachers being evaluated. Conferences must be held prior to the December holiday break. During the conference, which should be attended by each evaluator (at the discretion of the principal), teachers must be provided with written documentation (using the approved form, for example, the Preliminary Evaluation Consensus Report form or the Preliminary Evaluation Summary form) of the evaluation results for the fall semester, an oral explanation of the results and suggestions for improving or enhancing performance, and a written remediation plan, if appropriate.

9. Procedures to be used by evaluators to make final evaluation judgments about a teacher's typical performance during school year. These judgments must be made by April 15. Evaluation judgments are to be made for each Performance Dimension and must reflect a consensus among the evaluators based on a comparison of their collective evidence with the expectations described by the Competent Performance Description for each dimension. Judgments on the Performance Dimensions must be used to make an overall final evaluation judgment based on

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guidelines established by the local district. Final evaluation judgments for each dimension must be documented and are to include a rationale with supporting evidence and recommendations for improving or enhancing performance.

10. Procedures to be used by evaluators for conducting final evaluation conferences with teachers being evaluated. During the conference, which should be attended by each evaluator (at the discretion of the principal), teachers must be provided with written documentation of the evaluation results for the school year, as well as an oral explanation of the results and suggestions for improving or enhancing performance.

E. All locally developed or selected formal evaluation processes must address the general technical criteria of validity, reliability, maximum freedom from bias, and documentation. Guidelines which further define these criteria are available from the State Department of Education.

F. Informal evaluation processes for continuing contract teachers must be conducted with a process designed or selected by the local district. The processes must be approved by the State Board of Education and must include, but are not limited to:

1. Procedures whereby participating teachers develop, in writing and in collaboration with their building administrator(s), a minimum of three professional growth and development goals to be accomplished during the evaluation period (i.e., maximum of three years). At least one goal must be accomplished annually. The goals are to promote professional growth and development: (1) in a subject area for which the teacher is certified or is planning to become certified; (2) in instruction, technology, or assessment; and (3) through professional service. Goals are to be supportive of school district strategic plans and school renewal plans. As an alternative to developing three specific goals, teachers may elect to complete the process for pursuing National Board Certification as an overall goal.

2. Procedures whereby participating teachers develop, in writing and in consultation with their building administrator(s), individualized plans for accomplishing their goals.

3. Procedures whereby participating teachers specify, in writing and in consultation with their building administrator(s), the evidence they will offer to demonstrate that their goals have been accomplished.

4. Procedures whereby participating teachers and building administrators agree, in writing, on a process for monitoring progress towards accomplishing goals.

5. A locally designed process for monitoring, evaluating, and continuously improving the evaluation process.

G. By June 20 of each school year, school districts must report to the State Department of Education on the success of teachers employed under continuing contracts and the employment contract decisions made for the following year.

H. The State Department of Education will provide to school districts ongoing technical assistance in the form of training, consultation and advisement as requested. All school districts will submit any revisions and/or amendments to their process for evaluating and assisting teachers during their continuing contract teaching assignments to the State Department of Education no later than May 1 each year. Review teams, composed of representatives from colleges, universities and school districts, will provide feedback regarding amendments to plans so modifications can be made to existing programs.

VII. Teachers Employed From Out of State

A. Teachers employed from out of state who have less than one year of public school teaching experience may be employed under an induction contract.

B. Teachers employed from out of state who have one or more years of public school teaching experience may be employed under an induction or annual contract at the discretion of the school district.

C. Teachers employed from out of state who have more than two years of experience and are employed under an annual contract must be formally evaluated. However, if the teacher receives a successful overall rating on the approved preliminary evaluation report, the school district may choose to discontinue the formal evaluation process for the remainder of the school year. If the teacher is not successful according to the preliminary evaluation report, the formal evaluation process must be completed for that school year. Throughout the year, on an informal basis, the building administrator should monitor the teachers.

VIII. Trades and Industries Teachers

Teachers certified under the Trades and Industrial (T&I) education certification process are to follow the same sequence of potential contracts as other teachers (i.e., induction, provisional, annual, and continuing). However, T&I teachers who successfully complete an induction contract and who are hired as annual contract teachers may have up to four annual contracts. T&I teachers who have an induction contract and then successfully complete a provisional contract may have up to three annual contracts.

IX. Teachers Employed on a Part time Basis or for Less Than 152 Days

Teachers who are eligible for employment under an induction, provisional, or annual contract but who are hired on a part time basis or on a date which would result in less than 152 days of full time employment may be hired under a letter of agreement. Such teachers are to be assisted and/or evaluated at the discretion of the local district. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under letters of agreement.

X. Critical Needs Teachers

Teachers pursuing certification through a critical needs program shall be employed, assisted, and evaluated following the same sequence required for regular teachers.

Fiscal Impact Statement:

No additional costs to districts beyond current funding level.

Document No. 2482
DEPARTMENT OF EDUCATION
 CHAPTER 43

Statutory Authority: S.C. Code Ann. Section 59-5-60(1) (1990) and 59-139-10(A)(1) (Supp. 1998)

R. 43-265. Parenting/Family Literacy

Synopsis:

The Department of Education proposes Regulation 43-265, Parenting/Family Literacy, to assist school districts in establishing quality parenting and family literacy programs. The proposed regulation will clarify goals, define program components and specify service delivery methods. The Notice of Drafting was published in the State Register on July 23, 1999.

Instructions: Add new R. 43-265, Parenting/Family Literacy, to Chapter 43 regulations.

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Text:

R.43-265. Parenting/Family Literacy

I. Program Goals

- A. To strengthen parent involvement in the learning process of preschool children ages birth through five years
- B. To promote school readiness of preschool children
- C. To offer parents special opportunities to improve their literacy skills and education
- D. To identify potential developmental delays in preschool children by offering developmental screening

II. Requirements

- A. Each school district must design and implement a parenting or family literacy program to support parents of children ages birth through five years in their role as principal teachers of their preschool children.
- B. Intensive and special efforts must be made to recruit parents whose children are at risk for school failure.

III. Program Components

A. Parent Education

Programs must provide parent education that

1. enhances the relationships between parents and children and connects the value of interactions to literacy experiences;
2. provides literacy development of parents and children;
3. promotes interaction of parents with schools and the wider community;
4. develops understanding of child development; and
5. provides support services that address health, nutrition, transportation, childcare, and other related issues.

B. Family Literacy

Family literacy uses a more holistic and integrated approach to serving families. Districts must use this approach for families requiring more intense experiences to change intergenerational patterns associated with low literacy and undereducation. The South Carolina definition is consistent with federal legislation. Family literacy is clearly and consistently defined in the Adult Education and Family Literacy Act of 1998, Even Start, Head Start and the Reading Excellence Acts. These acts define "family literacy services" as services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

1. Interactive literacy activities between parents and their children
2. Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children
3. Parent literacy training that leads to economic self-sufficiency
4. An age appropriate education to prepare children for success in school and life experiences

C. Evaluation

Districts must participate in evaluation efforts coordinated by the State Department of Education. This will include tracking children of participating parents through first grade to determine the program's impact on school readiness. The evaluation should include a variety of other indicators, such as

1. increased level of school readiness,
2. improved parenting skills,
3. change in the educational level of parent participants,
4. parent satisfaction with the program,
5. number of developmental screenings completed and referrals, and
6. efforts to identify and recruit families of children at risk of school failure.

IV. Service Delivery Methods

The methods for service delivery will vary in specific type, mix, and intensity according to community needs and priorities.

A. Home Visits

Programs must provide instructional home visits that

1. provide individualized parenting or family literacy training for parents and preschool children;
2. build on the strengths that are apparent in a familiar setting;
3. demonstrate that the home is the child's first and most important learning environment; and
4. increase the intensity of program activities as well as increase access to services for some families.

B. Group Meetings

Programs must provide group meetings to

1. encourage parent mentoring,
2. develop support networks, and
3. provide parenting information.

V. Funding

Funding will be allocated as determined by the General Assembly.

VI. Coordination

Collaboration and coordination with other local agencies and community organizations must be integrated into all phases of program development, design, and implementation. School districts must consult with a local advisory committee to plan and develop parenting and family literacy services to maximize resources and avoid duplication of effort. This may include district early childhood, adult education, literacy, Success By 6, Head Start, Department of Social Services, and other community services.

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VII. Professional Development

The State Department of Education will provide or coordinate activities to train parent educators in developing and implementing parenting and family literacy initiatives. Nationally validated program and curriculum training, such as Parents As Teachers, Motherhood, Parent-Home-Child, etc., must be included. Appropriate ongoing staff development activities must be incorporated in the district's Strategic Plan as required by Act 135.

VIII. Guidelines

Additional information relating to the implementation of this regulation, including service delivery methods, developmental screening instruments, and at-risk factors/criteria is contained in the "Guidelines for Implementing Parenting/Family Literacy Programs," available at the State Department of Education. The State Board of Education will review and update the "Guidelines" as needed.

Fiscal Impact Statement: None

Document No. 2458

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: S.C. Code Sections 44-1-140(11); 1-23-10; -110

R.61-37. Retail Food Establishment Inspection Fees

Synopsis:

R.61-37, *Retail Food Establishment Inspection Fees*, establishes fees for inspection and support activities associated with the retail food industry. This regulation incorporates a fee increase of the fees previously provided for in annual provisos to the state budget. The fees are proportional to gross sales in each facility.

Discussion:

Section I addresses the purpose of the regulation.

Section II provides definitions.

Section III provides for fees, payment of renewal fees and late payment penalties, and exemptions from fees.

Section IV provides compliance procedures for non-payment of fees.

Section V addresses designation of use of funds and includes an unconstitutionality clause.

Instructions: Add new R.61-37, *Retail Food Establishment Inspection Fees*, to Chapter 61 Regulations.

Text:

R. 61-37. RETAIL FOOD ESTABLISHMENT INSPECTION FEES

SECTION I. PURPOSE

The citizens of South Carolina and our visitors expect and are entitled to wholesome, sanitary and safe food, no matter whether it is purchased in a grocery store or prepared and purchased in a restaurant or similar facility. To this end, the Department of Health and Environmental Control has established and maintained a conscientious program of permitting, inspecting and evaluating all types of retail facilities that provide food. This direct service program is conducted primarily by public health professionals working in county health departments. Funding for the program comes from state appropriations and fees authorized by this regulation.

SECTION II. DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this Regulation.

- A. DEPARTMENT - the South Carolina Department of Health and Environmental Control.
- B. PERMIT - the license to operate a retail food establishment issued by the Department pursuant to *Regulation 61-25, Retail Food Establishments*.
- C. RETAIL FOOD ESTABLISHMENT - as defined in *R.61-25, Retail Food Establishments*.
- D. FOOD - any raw, cooked or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

SECTION III. FEES, EXEMPTIONS, AND PENALTIES

A. INITIAL INSPECTION FEE

The Department shall charge annual inspection fees for retail food establishments. Retail food establishments obtaining a permit for the first time shall be charged an initial inspection fee of \$60.00. The fee shall be paid prior to the issuance of the permit.

B. RENEWAL INSPECTION FEE

After the first year, renewal inspection fees shall be based on gross sales of food and food products for the facility's previous business year. The renewal fee shall be \$60 for the first \$250,000 of sales, and shall be increased by \$30 for each additional \$250,000, or portion thereof, in sales. The maximum fee shall be \$270.00. Owners of retail food establishments shall furnish previous business year sales information on request of the Department; this information shall be exempt from disclosure pursuant to the South Carolina Freedom of Information Act, S.C. Code §30-4-40(a)(2).

C. RENEWAL FEE PAYMENT AND PENALTIES

Annually, retail food establishments shall be notified that their renewal fee is due. Each retail food establishment shall determine and pay the amount of renewal fee that is appropriate for its retail sales of food. Payment shall be due thirty (30) days from the billing date. A penalty charge of \$30.00 shall be assessed for fees that are thirty (30) days past due. A second penalty charge of \$30.00 shall be assessed for fees that are sixty (60) days past due.

D. FACILITIES EXEMPT FROM FEES

The following retail food establishments shall be exempt from initial and renewal fees:

1. Retail food establishments that are operated by a public or private school (kindergarten through grade 12); or that are operated by a child care facility.
2. Retail food establishments operated by health care facilities that are regulated by the Department.
3. Retail food establishments that are operated by other state agencies or local governments that provide food for patients, clients or inmates.

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4. Retail food establishments that are operated by non-profit organizations for the purpose of providing meals or food to needy persons at little or no cost; or for the purpose of raising money for a charitable cause.

A retail food establishment claiming exemption from fee charges shall certify annually to the Department that it meets one or more of the above criteria, and upon request, provide documentation supporting any such certification.

SECTION IV. COMPLIANCE PROCEDURES

A. PERMIT SUSPENSION

Retail food establishments that have not paid their renewal fee and late payment penalties after ninety (90) days from their original billing date shall have their permit suspended upon service of notice of suspension. The Department may reinstate a permit suspended for failure to pay renewal fees upon payment of the fees, penalties and a \$30.00 reinstatement fee. Suspension of a permit for failure to pay the required annual fee, plus applicable late charges, shall not constitute a contested case and shall not create a right to a hearing pursuant to the South Carolina Administrative Procedures Act.

B. SERVICE OF NOTICE

A notice provided for in this regulation is properly served when it is delivered to the permit holder, or an employee; or when it is sent by mail to the address of the permit holder; or when it is delivered to an employee designated to be or actually in charge of the retail food establishment.

C. ENFORCEMENT PROVISIONS

This regulation is issued under the authority of Section 44-4-140, 1976 Code of Laws of South Carolina and subsequent legislation, and shall be enforced by the Department.

SECTION V. OTHER

A. DESIGNATION OF USE

Funds derived from these fees shall be used only for the provision of services and accompanying expenses associated with Environmental Health programs.

B. UNCONSTITUTIONALITY CLAUSE

Should any chapter, paragraph, sentence, clause, or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

Fiscal Impact Statement:

Staff anticipates no new costs imposed on the State or its political subdivisions by this regulation. There will be an increase in fees paid by retail food establishments in accordance with the sliding scale indicated in the proposed regulation.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: New R.61-37. Retail Food Establishment Inspection Fees

Purpose: The purpose of this action is to promulgate R.61-37 to place authorization of retail food establishment inspection fees in a regulation subject to the Administrative Procedures Act and public review and to incorporate a necessary fee increase into the regulation.

Authority: S.C. Code Sections 44-1-140(11); 1-23-10; -110

Plan for Implementing: Upon approval by the S.C. General Assembly and publication in the *State Register*, R.61-37 will be immediately implemented and the annual proviso to the state budget will be struck from the budget.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT: Retail food establishment inspection fees should be in a regulation subject to the Administrative Procedures Act and public review rather than in a proviso to the state budget. This will provide opportunity for public comment and input into the regulation.

DETERMINATION OF COSTS AND BENEFITS

Cost: There will be no fiscal or economic impact on the State or its political subdivisions. There will be an increase proportional to gross sales for each retail food establishment.

Benefit: The public will have an opportunity for input into R. 61-37. The program will be able to continue service to the state’s citizens in a timely, effective and efficient manner. The public’s health and environment will be protected by the continued vigilance of regulatory oversight of this program.

UNCERTAINTIES OF ESTIMATES:

Regulation 61-37 will not create a burden for the public, the State, and its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The public’s health and environment will be protected by the continued vigilance of regulatory oversight of retail food sales and service.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There will be possible detrimental effect on the environment and public health because the program will not have the resources to continue regulatory oversight of the retail food industry that is a vital part of the state’s tourism industry and economy.

Document No. 2499
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 61
 Statutory Authority: 1976 Code Sections
 44-96-260, 44-96-290, and 44-96-450

R.61-107.17 Solid Waste Management: Demonstration-of-Need

Synopsis:

The Solid Waste Policy and Management Act of 1991 (Act), S.C. Code Ann. Section 44-96-290.E. requires all new solid waste management facilities and expansions of existing solid waste facilities to demonstrate need prior to

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permitting by the Department. To satisfy the requirements of the Act, the Department has promulgated a new regulation entitled “Solid Waste Management: Demonstration-of-Need. This new regulation establishes the criteria for the demonstration-of-need for the construction of new and the expansion of existing municipal solid waste landfills, municipal solid waste incinerators, industrial incinerators, Part IV (long-term) construction, demolition, and land-clearing debris landfills, and industrial landfills. This regulation is needed so that solid waste disposal capacity is managed to meet the long-term disposal needs of the State while protecting the State’s natural resources. This regulation is reasonable because it encourages competition within planning areas and regionalization of landfills, while at the same time ensuring there is more than adequate capacity to meet the State’s disposal needs.

Discussion:

Section A addresses the applicability of the regulation.

Section B addresses the definitions used in the regulation including the definition of “planning area” which is used as a basis for determining need.

Section C addresses the requirements used by the Department for determining when a demonstration-of-need is necessary.

Section D addresses the criteria used for determining need including submittal requirements for the applicant, and variances of demonstration-of-need.

Section E addresses violations, penalties, and appeals.

Section F addresses severability.

Instructions: Add new R.61-107.17 to Chapter 61 Regulations.

Text:

R.61-107.17 Solid Waste Management: Demonstration-of-Need

Table of Contents:

- A. Applicability
- B. Definitions
- C. Demonstration of Need Requirements
- D. Determining Need
- E. Violations and Penalties
- F. Severability

A. Applicability.

1. This regulation establishes the criteria for the demonstration-of-need for the construction of new and the expansion of existing municipal solid waste landfills, municipal solid waste incinerators, industrial incinerators, Part IV (long-term) construction, demolition, and land-clearing debris landfills, and industrial landfills. Solid waste disposal facilities that have stopped accepting waste prior to the effective date of this regulation shall be considered new facilities and required to demonstrate need pursuant to this regulation.

2. This regulation does not apply to inert or cellulosic solid waste facilities or to industrial facilities managing solid waste generated in the course of normal operations on property under the same ownership or control as the solid waste management facility if the facility is not a commercial solid waste management facility.

3. This regulation does not apply to facilities that handle hazardous waste as defined by the Resource Conservation and Recovery Act (RCRA) and R.61-79, Hazardous Waste Management Regulations, and infectious waste as defined by R.61-105, Infectious Waste Management Regulations.

B. Definitions

1. “Commercial solid waste disposal facility” means a publicly or privately owned solid waste disposal facility which accepts solid waste from outside the county or region in which the facility is located.

2. “County or regional Solid Waste Management Plan” - means a solid waste management plan prepared, approved, and submitted by either a single county or a region, i.e., a group of counties, pursuant to the Solid Waste Policy and Management Act, S.C. Code Ann. Section 44-96-80 (1976 Code as amended.)

3. “Department” means the South Carolina Department of Health and Environmental Control.

4. “Disposal Rate” means the total volume or rate of disposal at the solid waste disposal facility on a fiscal year basis.

5. “Expand” or “Expansion” means any increase in the permitted capacity of a solid waste disposal facility, or any increase in the total volume or annual permitted rate of disposal at a solid waste disposal facility.

6. “Planning area” means the area around a solid waste disposal facility as defined below which is used for determining the need for new disposal facilities and expansions of existing disposal facilities.

a. The following planning areas shall be used by the Department for determining need for commercial facilities:

<u>Commercial Solid Waste Disposal Facility</u>	<u>Size of Planning Area Around Landfill/Incinerator</u>
Municipal Solid Waste Landfill	75-mile radius
Industrial Landfill	75-mile radius
Municipal Solid Waste Incinerator	75-mile radius
Industrial Incinerator	75-mile radius
Part IV Construction Demolition and Land-clearing debris Landfill	10-mile radius

b. The planning area for an existing county or region owned facility that only accepts waste generated within its boundaries shall be limited to the county or region in which the facility is located. The local solid waste management plan will identify a facility as being a county facility or a regional facility. Any new county or region owned facility that is proposing to accept only waste generated within its boundaries shall be subject to the planning area in Section B.6.a.

7. “Region” means a group of counties which is planning to or has prepared, approved, and submitted a regional solid waste management plan to the Department pursuant to S.C. Code Ann. Section 44-96-80.

8. “Solid Waste” means any garbage, refuse, or sludge from a waste treatment plant, water supply plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. This term does not include solid or dissolved material in domestic sewage, recovered materials, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to NPDES permits under the Federal

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Water Pollution Control Act, as amended, or the Pollution Control Act of South Carolina, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1964, as amended. Also excluded from this definition are application of fertilizer and animal manure during normal agricultural operations or refuse as defined and regulated pursuant to the South Carolina Mining Act, including processed mineral waste, which will not have a significant adverse impact on the environment.

9. "Solid Waste Disposal Facilities" means municipal solid waste landfills, municipal solid waste incinerators, industrial incinerators, Part IV (long-term) construction, demolition, and land-clearing debris landfills, and/or industrial landfills.

10. "State Solid Waste Management Plan" means the plan which the Department of Health and Environmental Control is required to submit to the General Assembly and to the Governor pursuant to S.C. Code Ann. Section 44-96-60.

C. Demonstration-of-Need Requirements for Solid Waste Disposal Facilities.

1. No permit to construct a new solid waste disposal facility or to expand an existing solid waste disposal facility shall be issued until a demonstration-of-need is approved by the Department, provided, however, that any increase in the disposal rate shall not require a demonstration-of-need as long as such disposal rate is less than the maximum disposal rate as determined in paragraph D.3.b. below.

2. Construction of new or expansion of existing solid waste disposal facilities may not be commenced until all permits required for construction have been issued.

3. Need shall be demonstrated for the following types of solid waste disposal facilities:

- a. Municipal Solid Waste Landfills;
- b. Part IV (long-term) Construction, Demolition, and Land-Clearing Debris Landfills;
- c. Industrial Landfills;
- d. Municipal Solid Waste Incinerators; and,
- e. Industrial Solid Waste Incinerators.

4. The initial demonstration-of-need for a new or expanded solid waste disposal facilities shall be made by the Department prior to a consistency determination.

5. In determining whether there is a need for new solid waste disposal facilities or expansion of existing solid waste disposal facilities, the Department shall not consider solid waste generated in jurisdictions not subject to the provisions of a county or regional solid waste management plan pursuant to S.C. Code Ann. 44-96-80.

D. Determining Need.

1. For all new proposed solid waste disposal facilities and all proposed expansions of existing solid waste disposal facilities, the applicant shall submit the following information to the Department:

- a. The longitude and latitude coordinates for the site of the proposed new facility or proposed expansion; and,

b. The proposed disposal rate for the proposed new facility, or for the proposed expansion of the existing facility.

2. The Department will conduct a review of permitted disposal rates at existing solid waste disposal facilities within the planning area of any new proposed solid waste disposal facilities and any proposed expansions of existing solid waste disposal facilities, based upon information contained in the applicable county or regional solid waste management plan and the State Solid Waste Management Plan for the proposed new solid waste disposal facility/expansion.

3. In determining if there is a need for a new or expansion of an existing solid waste disposal facility, the Department will use the criteria outlined below:

a. Where there are at least two (2) commercial disposal facilities under separate ownership within the planning area that meet the disposal needs for the area, e.g., that accept special waste and, if applicable, are capable of handling additional tonnage, no new disposal capacity will be allowed. Disposal facilities that accept only waste generated in the county or region in which the disposal facility is located will not be considered in determining need.

b. Each disposal facility in the planning area will be allowed up to a maximum yearly disposal rate equal to the total amount of solid waste destined for disposal that is generated in the county or counties that fall, either all inclusive or a portion there of, within the planning area. Disposal rates for existing facilities shall not be reduced pursuant to this provision.

c. In determining the amount of solid waste destined for disposal, the Department will use figures in the current Solid Waste Annual Report for the proposed waste stream, e.g., the generation rate for a Part IV construction, demolition debris and land-clearing debris landfill will be determined by adding the amounts of construction and demolition debris, and land-clearing debris destined for disposal in permitted construction, demolition, and land-clearing debris landfills in the counties that fall within the planning area.

d. The Department reserves the right to review additional factors in determining need on a case-by-case basis.

4. Variance.

a. In regards to demonstration-of-need, any solid waste disposal facility existing on the effective date of this regulation that exhausts its capacity, shall be allowed to either construct a new solid waste disposal facility at its permitted annual rate of disposal as a replacement, or expand the volume of the existing solid waste disposal facility. The planning area shall be determined based on the location of the expansion or replacement facility. This variance applies to all solid waste disposal facilities, including solid waste disposal facilities that accept only waste generated in the county or region in which the facility is located.

b. A solid waste disposal facility shall apply to the Department for a variance to either replace the solid waste disposal facility or to expand the volume of the existing solid waste disposal facility at least five (5) years before exhausting its permitted capacity or the operational life of the facility.

5. The Department will advise the applicant and the host county or region in writing of its demonstration-of-need determination.

E. Violations and Penalties. A violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order or a civil enforcement action in accordance with S.C. Code Ann. Section 44-96-450. Willful violation of this regulation or any permit, order, or standard subjects the person to the issuance of a Department order or to criminal enforcement action in accordance with S.C. Code Ann. Section 44-96-450. Any person to whom an order is issued may appeal it as a contested case pursuant to any applicable provision of R.61-72,

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Procedures for Contested Cases, and the S.C. Administrative Procedures Act, S.C. Code Ann. Section 1-23-310 et seq.

F. Severability. Should any section, paragraph, sentence, word, clause or phrase of this regulation be declared unconstitutional or invalid for any reason, the remainder of this regulation shall not be affected thereby.

Fiscal Impact Statement:

This regulation will encourage competitive solid waste disposal tipping fees in the State by allowing two (2) landfills under separate ownership within each planning area. In South Carolina, the current average disposal cost is approximately \$30/ton which includes approximately \$10/ton for transportation. A 75-mile planning area allows three round trips per day from transfer station to disposal site, which would equal 66 tons (22 tons/truck) of waste hauled, resulting in an estimated transportation cost of \$8.33/ton. The 75-mile planning area is the largest planning area possible without increasing the current average transportation cost and thus adversely impacting competition.

Additional costs to the Department are not anticipated beyond those resources allowed in the Act.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: New Regulation, Solid Waste Management: Demonstration-of-Need.

Purpose: The purpose of this regulation is to satisfy the requirements of the Solid Waste Policy and Management Act of 1991, S.C. Code Ann. Sections 44-96-260, 44-96-290. The regulation establishes criteria for the demonstration-of-need for the construction of new and the expansion of existing municipal solid waste landfills, municipal solid waste incinerators, industrial incinerators, Part IV (long-term) construction, demolition, and land-clearing debris landfills, and industrial landfills.

Authority: The Solid Waste Policy and Management Act of 1991, S.C. Code Ann. Sections 44-96-260, 44-96-290, and 44-96-450.

Plan for Implementation: This new regulation, as amended by public comment and approval by the DHEC Board, will become effective upon approval of the General Assembly and subsequent publication in the State Register, and will be incorporated within R.61-107, Solid Waste Management, as R.61-107.17. The regulation will be implemented in the same manner in which other regulations are implemented.

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

This regulation is needed so that solid waste disposal capacity is managed to meet the long-term disposal needs of the State while protecting the State's natural resources. The regulation requires permit applicants to demonstrate the need for new landfills and expansions of existing landfills prior to obtaining a permit. This regulation is reasonable because it limits the total number of landfills in the State, while at the same time ensuring there is more than adequate capacity to meet the State's disposal needs. The regulation encourages competition within planning areas, and encourages the establishment of regional landfills.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation should not require additional resources beyond those allowed in the Act.

External Costs: The regulation allows for competition within planning areas by allowing two (2) landfills under separate ownership within each planning area. The Department anticipates little or no increase in solid waste disposal costs as a result of this regulation.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation encourages fewer, larger regional solid waste disposal facilities that are better designed and operated than numerous small facilities, thereby minimizing the impact of these facilities on the environment. The regulation ensures there is more than adequate disposal capacity in the State, so that solid waste may be properly disposed of in a safe manner, protecting public health and the environment.

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

The detrimental effect of not implementing this regulation would likely result in numerous smaller, less financially sound facilities in the State leading to inferior operation and maintenance. This would increase potential for contamination of the State's natural resources.

Document No. 2480

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: S.C. Code Sections 13-7-10, 13-7-40 and 13-7-45 *et seq.* and Supplement

R.61-64, X-RAYS (TITLE B)

Synopsis:

Amendment of R.61-64, Sections 1.16, 4.2.3 and 5.3.3 will incorporate changes from Act No. A101 that amends Title 44 of the Code of Laws of South Carolina by adding Chapter 74 so as to enact the AMedical Radiation Health and Safety Act and create the South Carolina Radiation Quality Standards Association. The Act requires the Department to promulgate regulations consistent with Chapter 74, which establishes minimum standards of education and provides for the appropriate examination and certification of persons using x-ray equipment on humans for diagnostic and therapeutic purposes, thereby superceding the requirements currently outlined in R.61-64.4.2.3 and R.61-64.5.3.3. The Department will be responsible for the enforcement of Section 44-74-50 of Chapter 74. The amendment will ensure the applicable areas of R.61-64 are consistent with the provisions in Act No. A101 and Chapter 74 from Title 44. Specific areas the Department addresses in the regulations include: requiring a registrant to ensure that operators of diagnostic and therapeutic x-ray equipment possess a valid, current certificate from the South Carolina Radiation Quality Standards Association; prohibiting a registrant from employing a person as an operator when certification has not been obtained; requiring operators to be under the direction and supervision of a licensed practitioner; requiring an operator who has been approved to display a current training certificate; maintaining of training records; and, assessing civil penalties for violating the aforementioned provisions. The Department also adds regulations to exempt dentists and their auxiliaries provided they meet the requirements of the South Carolina Dental Practice Act in accordance with A101. See Discussion of Proposed Revisions below and Statement of Need and Reasonableness herein.

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Discussion:

<u>SECTION</u>	<u>REVISION</u>
R.61-64.1.16.1.12	New subsection was added to include civil penalties for repeated failure by a registrant to ensure operators possess a valid, current certificate from the South Carolina Radiation Quality Standards Association (SCRQSA).
R.61-64.1.16.1.13	New subsection was added to include civil penalties for repeated incidents of a person not certified by the SCRQSA indicating they are authorized to operate x-ray equipment when the person is not certified.
R.61-64.1.16.2.16	New subsection was added to include civil penalties for failure by a registrant to ensure operators poses a valid, current certificate from the SCRQSA.
R.61-64.1.16.2.17	New subsection was added to include civil penalties for an incident of a person not certified by the SCRQSA indicating they are authorized to operate x-ray equipment when the person is not certified.
R.61-64.1.16.2.18	New subsection was added to include civil penalties for repeated failures by a registrant to ensure that an x-ray equipment operator receives the required training.
R.61-64.1.16.3.8	New subsection was added to include civil penalties for failure by a registrant to ensure that an x-ray equipment operator receives the required training.
R.61-64.1.16.4.6	New subsection was added to include civil penalties for repeated failures by a registrant to display each operator=s current certificate from the SCRQSA.
R.61-64.1.16.5.7	New subsection was added to include civil penalties for failure by a registrant to display each operator=s current certificate from the SCRQSA.
R.61-64.4.2.3	Subsection was revised to add the requirement that x-ray equipment operators must be a licensed practitioner or certified by the SCRQSA, add a definition of a radiologic technologist, and indicate the effective date of this part. Subsection was also revised to delete reference to other training requirements.
R.61-64.4.2.3.1	Text of existing subsection and subitems were deleted and replaced by new text to require that only persons certified by the SCRQSA shall operate diagnostic x-ray equipment.
R.61-64.4.2.3.2	Text of existing subsection was deleted and replaced by new text to prohibit a registrant from allowing persons not certified by the SCRQSA to operate diagnostic x-ray equipment.
R.61-64.4.2.3.3	Existing text of subsection was deleted and replaced by new text to prohibit persons holding a certificate from the SCRQSA from operating diagnostic x-ray equipment except under the direction and supervision of a licensed practitioner and unless directed by a prescription from a licensed practitioner.
R.61-64.4.2.3.4	New subsection was added to prohibit persons taking specific types of x-rays from indicating they are authorized to do so when they are not certified by the SCRQSA.

- R.61-64.4.2.3.5 New subsection was added to permit student or residents to take x-rays without a certificate from the SCRQSA as long as they are under the supervision of a licensed practitioner or a certified radiologic technologist.
- R.61-64.4.2.3.6 New subsection was added to require the registrant to display each operator=s current certificate from the SCRQSA.
- R.61-64.4.2.3.7 New subsection was added to require registrants to ensure operators have received specific equipment and procedural training, and that such training records be maintained and available for Department review.
- R.61-64.4.2.3.8 New subsection was added to exempt dentists and their auxiliaries who meet the requirements of the S.C. Dental Practice Act in accordance with A101.
- R.61-64.5.3.3 Subsection title was revised to indicate the effective date of the requirements.
- R.61-64.5.3.3.1 Subsection item was revised to add the requirements that therapeutic equipment operators must be a licensed practitioner or certified by the SCRQSA, and add a definition of a radiation therapist. Revised to delete a reference to other training requirements.
- R.61-64.5.3.3.2 Subsection item was revised to change numbering.
- R.61-64.5.3.3.3 Text of existing subsection and subitems were deleted and replaced by new text to require that only persons certified by the SCRQSA shall operate therapeutic equipment.
- R.61-64.5.3.3.4 New subsection was added to prohibit a registrant from allowing persons not certified by the SCRQSA to operate therapeutic equipment. Existing section R.61-64.5.3.3.4 was renumbered to R.61-64.5.3.3.9.
- R.61-64.5.3.3.5 New subsection was added to prohibit persons holding a certificate from the SCRQSA from operating therapeutic equipment except under the direction and supervision of a licensed practitioner and unless directed by a prescription from a licensed practitioner. Existing R.61-64.5.3.3.5 was renumbered to R.61-64.5.3.3.10.
- R.61-64.5.3.3.6 New subsection was added to prohibit persons taking specific types of x-rays from indicating they are authorized to operate therapeutic equipment when they are not certified by the SCRQSA. Existing R.61-64.5.3.3.6 is renumbered to R.61-64.5.3.3.11.
- R.61-64.5.3.3.7 Text of existing subsection item was deleted and replaced by new text to permit student or resident physicians to apply ionizing radiation to humans without a certificate from the SCRQSA as long as they are under the supervision of a licensed practitioner or a certified radiation therapist.
- R.61-64.5.3.3.8 New subsection was added to require the registrant to display each operator=s current certificate from the SCRQSA. Existing R.61-64.5.3.3.8 was renumbered to R.61-64.5.3.3.12.
- R.61-64.5.3.3.4 Existing subsection was renumbered to R.61-64.5.3.3.9 and revised to require registrants to ensure operators have received specific equipment and procedural training, and that such training records be maintained and available for Department review. Revisions also delete requirements for instruction due to being superseded by the requirements by the SCRQSA. Existing subsection subitems R.61-64.5.3.3.4.1 through R.61-64.5.3.3.4.8 are deleted.

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- R.61-64.5.3.3.5 Existing subsection was renumbered to R.61-64.5.3.3.10 and revised to delete a reference to training as a radiation therapy technologist due to being superseded by the requirements by the SCRQSA.
- R.61-64.5.3.3.6 Existing subsection was renumbered to R.61-64.5.3.3.11. There are no other changes.
- R.61-64.5.3.3.8 Existing subsection was renumbered to R.61-64.5.3.3.12. Subsection item R.61-64.5.3.3.12.1.1 was revised to renumber for grammatical conciseness. R.61-64.5.3.3.12.1.2 was revised to change numbering and delete reference to mrem since there are now other terms to refer to dose. R.61-64.5.3.3.12.5 was revised to renumber and delete a reference to Athe specific facility to be operated≅ and to delete redundant wording.
- R.61-64.5.3.3.9 Existing subsection was revised to change numbering to R.61-64.5.3.3.13. No other changes.
- R.61-64.5.3.3.10 Existing subsection was revised to change numbering to R.61-64.5.3.3.14. No other changes.

Instructions: Amend R.61-64 pursuant to each individual instruction provided with the text of the amendment below.

Text of Amendment:

R.61-64, X-Rays (Title B)

Add new subsection R.61-64.1.16.1.12 to read:

1.16.1.12 Repeated failures by a Registrant to ensure that operators of x-ray equipment possess a valid, current certificate from the South Carolina Radiation Quality Standards Association, as required by RHB 4.2.3 or RHB 5.3.3.1.

Add new subsection R.61-64.1.16.1.13 to read:

1.16.1.13 Repeated incidents of a person who is not certified by the South Carolina Radiation Quality Standards Association using or exhibiting a title, sign, display or declaration that misleads the public to believe the person is authorized to apply ionizing radiation on humans for diagnostic or therapeutic purposes.

Add new subsection R.61-64.1.16.2.16 to read:

1.16.2.16 Failure by a Registrant to ensure that an x-ray operator possesses a valid, current certificate from the South Carolina Radiation Quality Standards Association, as required by RHB 4.2.3 or RHB 5.3.3.1.

Add new subsection R.61-64.1.16.2.17 to read:

1.16.2.17 An incident of a person who is not certified by the South Carolina Radiation Quality Standards Association using or exhibiting a title, sign, display or declaration that misleads the public to believe the person is authorized to apply ionizing radiation on humans for diagnostic or therapeutic purposes.

Add new subsection R.61-64.1.16.2.18 to read:

1.16.2.18 Repeated failures by a Registrant to ensure that an x-ray operator receives the training required by RHB 4.2.3.7 or RHB 5.3.3.9.

Add new subsection R.61-64.1.16.3.8 to read:

1.16.3.8 Failure by a Registrant to ensure that an x-ray operator receives the training required by RHB 4.2.3.7 or RHB 5.3.3.9.

Add new subsection R.61-64.1.16.4.6 to read:

1.16.4.6 Repeated failures by a Registrant to display each operator=s current certificate from the South Carolina Radiation Quality Standards Association, as required by RHB 4.2.3.6, or RHB 5.3.3.8.

Add new subsection R.61-64.1.16.5.7 to read:

1.16.5.7 Failure by a Registrant to display each operator=s current certificate from the South Carolina Radiation Quality Standards Association, as required by RHB 4.2.3.6 or RHB 5.3.3.8.

Replace R.61-64.4.2.3 to read:

4.2.3. The registrant shall assure that all x-ray machines under his control are operated only by a radiologic technologist possessing a current, valid certificate from the South Carolina Radiation Quality Standards Association, or a licensed practitioner. For the purpose of this Part, a radiologic technologist is defined as a person who is a limited practice radiographer, radiographer, podiatric limited practice radiographer or limited chest radiographer certified by the American Registry of Radiologic Technologists or who is certified by the South Carolina Radiation Quality Standards Association or who has obtained a certificate acceptable to the South Carolina Radiation Quality Standards Association. A person who applies ionizing radiation to humans or performs x-ray exam setups, including, but not limited to, patient positioning and technique selection shall be considered to be a radiologic technologist. The requirements of this part shall become effective June 30, 2000.

Replace R.61-64.4.2.3.1 and 4.2.3.1.1 through 4.2.3.1.4 to read:

4.2.3.1 No person other than a licensed practitioner or a radiologic technologist possessing a current, valid certificate from the South Carolina Radiation Quality Standards Association shall use equipment emitting ionizing radiation on humans for diagnostic purposes.

Replace R.61-64.4.2.3.2 to read:

4.2.3.2 No person shall employ or designate as a radiologic technologist a person who does not hold a current, valid certificate issued by the South Carolina Radiation Quality Standards Association.

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Replace R.61-64.4.2.3.3 to read:

4.2.3.3 No person holding a certificate issued by the South Carolina Radiation Quality Standards Association shall use equipment emitting ionizing radiation on humans for diagnostic purposes unless under the direction and supervision of a licensed practitioner and unless so directed by prescription of a licensed practitioner.

Add new subsection R.61-64.4.2.3.4 to read:

4.2.3.4 No person who is not certified by the South Carolina Radiation Quality Standards Association shall take, use, or exhibit the title of Alimited practice radiographer≡, Apodiatric limited practice radiographer≡, Alimited chest radiographer≡, or Aradiographer≡ or any other title, sign, display, or declaration that tends to lead the public to believe that the person is authorized to apply ionizing radiation on humans for diagnostic purposes.

Add new subsection R.61-64.4.2.3.5 to read:

4.2.3.5 A student enrolled in and attending a school or college of medicine, osteopathy, chiropractic, podiatry, radiologic technology, or a curriculum approved by the South Carolina Radiation Quality Standards Association, or a resident in an approved graduate education program of medicine, osteopathy, chiropractic or podiatry may apply ionizing radiation to humans without a certificate from the South Carolina Radiation Quality Standards Association, as long as the student or resident is under the supervision of a licensed practitioner or direct supervision of a certified radiologic technologist appropriately trained to supervise the specific procedure.

Add new subsection R.61-64.4.2.3.6 to read:

4.2.3.6 The registrant shall display each operator's current certificate in public view, not obstructed by any barrier, equipment, or other object.

Add new subsection R.61-64.4.2.3.7 to read:

4.2.3.7 The registrant shall ensure that each operator has received training specific to the equipment and procedures in use at his facility, including machine specific training, use of personnel monitoring devices, quality assurance procedures, and the operating procedures required by RHB 4.2.4. The registrant shall maintain a record of this training for each operator. Such records shall be made available for Departmental review.

Add new subsection R.61-64.4.2.3.8 to read:

4.2.3.8 Dentists and their auxiliaries who meet the requirements of the South Carolina Dental Practice Act are exempt from the requirements of RHB 4.2.3.1 through RHB 4.2.3.6.

Replace sections R.61-64.5.3.3 in entirety to read:

RHB 5.3 General Provisions for All Therapeutic Equipment.

5.3.3 Operator Requirements and Training. The requirements of this part shall become effective June 30, 2000.

5.3.3.1 The registrant shall assure that all therapeutic equipment under his control is operated only by a radiation therapist possessing a current, valid certificate from the South Carolina Radiation Quality Standards Association, or a licensed practitioner. For the purpose of this Part, a radiation therapist is defined as a person who applies radiation to humans for therapeutic purposes; performs treatment setups, including, but not limited to, patient positioning, setting of treatment parameters on the control panel, and verification of treatment accessories; or documents daily treatments for a patient's chart.

5.3.3.2 In-house modification, repairs, or preventative maintenance on therapeutic equipment components or safety interlocks may be performed only by or under the direct supervision of persons who have received at least the minimum training specified in RHB 5.3.3.12 and demonstrated competence specified in RHB 5.3.3.13.

5.3.3.3 No person other than a licensed practitioner or a radiation therapist possessing a current, valid certificate from the South Carolina Radiation Quality Standards Association shall use equipment emitting ionizing radiation on humans for therapeutic purposes.

5.3.3.4 No person shall employ or designate as a radiation therapist a person who does not hold a certificate issued by the South Carolina Radiation Quality Standards Association.

5.3.3.5 No person holding a certificate issued by the South Carolina Radiation Quality Standards Association shall use equipment emitting ionizing radiation on humans for therapeutic purposes unless under the direction and supervision of a licensed practitioner and unless so directed by prescription of a licensed practitioner.

5.3.3.6 No person who is not certified by the South Carolina Radiation Quality Standards Association shall take, use, or exhibit the title of Alimited practice radiographer≡, Aradiographer≡, or Aradiation therapist≡ or any other title, sign, display, or declaration that tends to lead the public to believe that the person is authorized to apply ionizing radiation on humans for therapeutic purposes.

5.3.3.7 A student or resident physician enrolled in and attending a school or college of medicine, radiologic technology, radiation therapy, or a curriculum approved by the South Carolina Radiation Quality Standards Association may apply ionizing radiation to humans without a certificate from the South Carolina Quality Standards Association as long as the student or resident physician is under the supervision of a licensed practitioner or direct supervision of a certified radiation therapist appropriately trained to supervise the specific procedure.

5.3.3.8 The registrant shall display each operator's current certificate in public view, not obstructed by any barrier, equipment, or other object.

5.3.3.9 The registrant shall ensure that each operator has received training specific to the equipment and procedures in use at his facility, including machine specific training, use of personnel monitoring devices, quality assurance procedures, and the operating procedures required by RHB 5.3.2.

5.3.3.10 All operators shall receive at least one month of on the job training before assuming operational responsibility.

5.3.3.11 The registrant shall maintain a record of all training for each operator. Such records shall be made available for Departmental inspection.

5.3.3.12 Training of in-house and test maintenance personnel shall include:

5.3.3.12.1 Fundamentals of Radiation Safety;

5.3.3.12.1.1 Characteristics of radiation.

5.3.3.12.1.2 Units of radiation dose.

5.3.3.12.1.3 Hazards of excessive exposure to radiation.

5.3.3.12.1.4 Levels of radiation from therapeutic equipment.

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5.3.3.12.1.5 Methods used to prevent radiation exposure, including shielding, interlocks, safety rules, and radiation monitoring equipment.

5.3.3.12.2 Use and care of personnel monitoring equipment employed at the facility.

5.3.3.12.3 Location and use of all operating controls.

5.3.3.12.4 Requirements of pertinent State Regulations.

5.3.3.12.5 Registrant's written operating and emergency procedures.

5.3.3.13 In-house personnel who are to perform or directly supervise modifications, tests or maintenance work shall demonstrate the following capabilities to the radiation safety officer:

5.3.3.13.1 Ability to read and understand electrical diagrams.

5.3.3.13.2 A thorough knowledge of the principles and operation of the therapeutic equipment.

5.3.3.13.3 A thorough knowledge of the safety interlock system.

5.3.3.13.4 Ability to understand, use, and check the operation of radiation survey instruments.

5.3.3.14 The registrant shall maintain a record of all training for in-house testing and maintenance personnel. Such records shall be made available for Departmental inspection.

Fiscal Impact Statement:

There will be minimal cost to the state and its political subdivisions with the implementation of these amendments. The regulated community will be impacted if the current x-ray equipment operators are not licensed practitioners or are not certified by the American Registry of Radiologic Technologists. All persons who apply for certification must pay a biennial fee of \$50 to the South Carolina Radiation Quality Standards Association. The added costs of certification and any training required to obtain or maintain certification are not due to or addressed by R.61-64. However, the Act does provide for residents or students enrolled in and attending a school or college of medicine, osteopathy, chiropractic, podiatry, or radiologic technology. It also provides exceptions, upon written examination and the payment of an initial certification fee, for persons employed by a licensed practitioner to take x-rays for a minimum of three years of the immediately preceding five years, and persons employed by a licensed practitioner to take x-rays during one of the past three years immediately before the Act's effective date of June 30, 2000.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Amendment of R.61-64, X-Rays (Title B)

Purpose: Amendment of R.61-64, X-Rays (Title B) will incorporate the requirements of Act No. A101 that amends Title 44 of the Code of Laws of South Carolina so as to enact the AMedical Radiation Health and Safety Act≅ and create the South Carolina Radiation Quality Standards Association. The Act requires the Department to promulgate regulations consistent with Chapter 74 of Title 44. The Act establishes minimum standards of education and provides for the appropriate examination and certification of persons using x-ray equipment on humans for diagnostic and therapeutic purposes, thereby superceding the requirements currently outlined in R.61-64.4.2.3 and R.61-64.5.3.3.

The proposed amendment will ensure the applicable areas of R.61-64 are consistent with the provisions in Act No. 101. Specific areas the Department seeks to address in the regulations include: requiring a registrant to ensure that operators of diagnostic and therapeutic x-ray equipment possess a valid, current certificate from the South Carolina Radiation Quality Standards Association; prohibiting a registrant from employing a person as an operator when certification has not been obtained; requiring operators to be under the direction and supervision of a licensed practitioner; requiring an operator who has been approved to display a current training certificate; maintaining of training records; and, assessing civil penalties for violating the aforementioned provisions. The Department also seeks to add regulations to exempt dentists and their auxiliaries provided they meet the requirements of the South Carolina Dental Practice Act.

Legal Authority: R.61-64, X-Rays (Title B), is authorized by the S.C. Code Section 13-7-45 *et seq.* and Supplement.

Plan for Implementation: The amendments will make changes to and be incorporated into R.61-64 upon approval of the General Assembly and publication in the State Register. The amendments will be implemented by providing the regulated community with copies of the regulation and a detailed explanation of the regulations, to include how the Department will inspect facilities for compliance and enforcement action, if needed.

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

The changes are needed to implement the requirement by Act No. A101 which requires the Department to promulgate regulations consistent with Chapter 74 of Title 44. The Act establishes minimum standards of education and provides for the appropriate examination and certification of persons using x-ray equipment on humans for diagnostic and therapeutic purposes, thereby superceding the requirements currently outlined in R.61-64.4.2.3 and R.61-64.5.3.3.

The changes are reasonable because they will be implemented with existing staff. The staff will be responsible for reviewing certificates during inspections, citing violations if a certificate is not present, taking appropriate action against facilities with uncertified operators, and investigating complaints regarding uncertified operators.

The expected benefits of the proposed regulatory changes are increased health and safety to the public due to increased training requirements, and increased accountability of the regulated community due to the requirement that they must ensure certified persons are operating the x-ray equipment.

DETERMINATION OF COSTS AND BENEFITS: There will be minimal cost to the state and its political subdivisions with the implementation of the amendments. The regulated community will be impacted if the current x-ray equipment operators are not licensed practitioners or are not certified by the American Registry of Radiologic Technologists. All persons who apply for certification must pay a biennial fee of \$50 to the South Carolina Radiation Quality Standards Association. The added costs of certification and any training required to obtain or maintain certification are not due to or addressed by R.61-64. However, the Act does provide for resident physicians or students enrolled in and attending a school or college of medicine, osteopathy, chiropractic, podiatry, or radiologic technology. It also provides exceptions, upon written examination and the payment of an initial certification fee, for persons employed by a licensed practitioner to take x-rays for a minimum of three years of the immediately preceding five years, and persons employed by a licensed practitioner to take x-rays during one of the past three years immediately before the Act's effective date of June 30, 2000.

UNCERTAINTIES OF ESTIMATES: The Department is unsure of how many current x-ray operators will be required to be certified through the South Carolina Radiation Quality Standards Association.

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EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There will be no effect upon the environment. The amendments will have a positive effect upon the public health of the citizens of the state due to increased training requirements.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: There will be no detrimental effects on the environment if these changes are not implemented. The public health of the citizens would not be reduced over that which is present with the current regulations, but it would be increased with more stringent requirements for operator training.

Document No. 2501
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110; 38-73-70; 1-23-10, *et seq.*
Named Storm or Wind/Hail Deductible

Synopsis:

The purpose of this Regulation is to clarify the requirements of the process by which insurers inform policyholders who purchase property policies insuring the perils of wind/hail which contain wind/hail deductibles of such deductibles and to require the policyholder to sign or initial the notice prior to changing the amount of the wind/hail deductible.

Instructions: R.69-56 is inserted in Chapter 69.

Text:

69-56. Named Storm or Wind/Hail Deductible

Under S. C. Code Ann. Section 38-73-70 (1976), the Department of Insurance may make reasonable regulations for the enforcement of Chapter 73 entitled "Property, Casualty, Inland Marine and Surety Rates and Rate-making Organizations."

A. Purpose: The purpose of this regulation is to clarify the process for insurers to inform policyholders who purchase property policies which contain named storm or wind/hail deductibles as a percentage of policy limits rather than as a specific fixed dollar amount regarding the nature of their deductible.

B. No insurer may offer a new property policy to or renew an existing policy of an insured that includes a named storm or wind/hail deductible unless the insurer:

- (1) includes an example which illustrates how the deductible functions for a policy valued at \$100,000 and this illustration will include a clear explanation of the event which will trigger the deductible; and
- (2) includes on the face of any policy that contains a separate named storm or wind/hail deductible the following statement: THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR NAMED STORM OR WIND/HAIL LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU. THE ENCLOSED EXAMPLE ILLUSTRATES HOW THE DEDUCTIBLE MIGHT AFFECT YOU. This identical statement shall also appear on the declarations page. The language may be added to the policy by an amendatory endorsement.

C. Renewal Changes: No insurer may change a current property policy at renewal by implementing a named storm deductible or increasing the size of the named storm deductible as expressed in percentage terms unless:

- (1) the insurer includes an example which illustrates how the deductible functions for a policy valued at \$100,000 and this illustration must include a clear explanation of the event which will trigger the deductible; and
- (2) the named insured signs or initials a disclosure that acknowledges that the named insured has read the example.

D. Implementation: Upon approval of this regulation, the Department of Insurance must issue a bulletin to all insurers within 60 days informing insurers of this regulation. The bulletin shall provide insurers with a 120 day period to begin implementation of the notice requirements. There is no requirement that insurers obtained signed disclosures from policyholders who have a property policy currently that includes a named storm deductible.

Fiscal Impact Statement:

The South Carolina Department of Insurance estimates that it will not incur any additional costs as a result of implementing this Regulation.

Summary of Assessment Report:

The proposed implementation of this regulation should not result in a substantial economic impact.

Document No. 2463

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 25**

Statutory Authority: 1976 Code Section 40-9-30 and 40-1-70

Synopsis:

The Board of Chiropractic Examiners is proposing to amend its existing regulations by replacing the state practical examination with the National Board of Chiropractic Examiners' (NBCE) practical examination (Part IV). The Board has determined that passage of Part IV of the National Board of Chiropractic Examiners (NBCE) is an acceptable practical examination for licensing purposes in this State.

Instructions: Amend current regulations, by amending Regulation 25-2 (A)3 and Regulation 25-3(A) as they appear in the text below.

Text:

25-2. Application for Board Examination

A.(3) National Board of Chiropractic Examiners scores. Certified copy of Parts I, II, III, and IV from the National Board of Chiropractic Examiners (NBCE) with the NBCE recommended passing score is required for applicants graduating from a chiropractic college on or after January 1, 1997. Graduates from chiropractic college on or after

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July 1, 1987, but before January 1, 1997 must have passed Parts I, II and III and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV. Graduates from chiropractic college prior to July 1, 1987 must have passed Parts I and II and passed a practical examination approved by the Board, such as the Special Purpose Examination for Chiropractic (SPEC) or Part IV. Applicants must have completed and passed all required parts of the National Board examinations prior to application for the South Carolina examination. Examination results must be received thirty (30) days prior to the administration of the South Carolina examination.

25-3. Examination

A. Examination Subjects. Applicants must be tested in South Carolina statutes, ethics, and philosophy and must pass with a score of seventy-five percent (75%) or better. If an applicant fails to achieve a score of seventy-five percent (75%) or better he may retake the examination within one (1) year.

B. Exam Regrade Procedure.

An applicant who has submitted a written request to the Board, within thirty (30) days from the mailing date of the notification of examination results, may verify that the score reported to them is accurate by requesting a regrading of their examination. A money order or cashier's check in the amount of \$25.00 for each subject to be regraded must be submitted with the written request. To protect the integrity of the examination process, applicants may not review their examination under any circumstances.

C. Failure of Examinations .

(1) Any applicant who fails any of the required subjects shall be allowed to retake the failed subjects upon payment of required fee. Applicants will be permitted two (2) successive retake examinations if necessary to pass the failed subjects, beginning at the next scheduled examination. If the applicant does not pass the failed subjects, the applicant must reapply and retake the entire examination and pay the necessary fees.

(2) An applicant who fails to satisfactorily pass an examination, who does not apply for reexamination and pay the required reexamination fee within one year, and who does not take and pass a subsequent examination within at least one year from the date of his/her original examination, must reapply for examination.

D. Endorsement/Reciprocity

A license may be granted for applicants who meet the following requirements:

(1) Applicant must have practiced for one (1) continuous year immediately preceding application to this Board.

(2) Applicants who matriculated after July 1, 1987 must meet all National Board examination requirements as set forth in Section 25-2.

(3) Applicants who matriculated prior to July 1, 1987 must:

(a) Have passed a state examination substantially equivalent to the National Board examinations or passed National Board Parts I and II;

(b) If National Board examination Parts I and II have not been passed, a Waiver form must be completed and submitted from the state in which he was licensed by examination, to include subjects tested and grades;

(4) Verification of licensure from every state where a license has been held, active or inactive, current or expired. Verification must be received directly from the state board to this office.

(5) Applicant must be tested in South Carolina statutes and ethics and philosophy and must pass with a 75% or better. If applicant fails to achieve a score of 75% or better he may retake the examination within one (1) year. Failure of the second examination disqualifies the chiropractor for endorsement and he must apply for license by examination. Applications are valid for one year only and the application must be completed within one (1) year of initial application date.

(6) Applicant may be required to appear before at least two (2) members of the Board for an interview.

Fiscal Impact Statement: No additional funds will be incurred by the State or any political subdivision.

Document No. 2438
PUBLIC SERVICE COMMISSION
 CHAPTER 103

Statutory Authority: S.C. Code Section 58-3-140 (Supp. 1998)

103-805 Appearance Bond

Synopsis:

The Public Service Commission proposes to create a regulation which requires an appearance bond in the amount of two hundred fifty dollars to be filed with any application that may require a hearing before the Public Service Commission.

Instructions: Add new R. 103-805, Appearance Bond, to Chapter 103 regulations.

Text:

R. 103-805 Appearance Bond

Applications that are filed with the Commission that may require a hearing shall be accompanied by an appearance bond in the amount of two hundred fifty dollars. The appearance bond is required to guarantee the applicant's appearance at the public hearing, if any, to be held in connection with its application. The appearance bond will be returned to the applicant if the applicant appears at the public hearing.

Fiscal Impact Statement:

There will be no increased cost incurred by the State or any political subdivision.

Document No. 2474
DEPARTMENT OF REVENUE
 CHAPTER 117

Statutory Authority: 1976 Code Section 12-4-320

Regulation: 117-8

Synopsis:

In general, the Department of Revenue (Department or DOR) has jurisdiction over the duties involved with the proper assessment of property for tax purposes and the proper calculation of property taxes, while the Comptroller General supervises the collection of taxes and penalties, and administers the Homestead Tax Exemption Program, including the exemption from school operations found in Section 12-37-251, except for those functions specifically reserved to the DOR.

Instructions: Add new regulation.

Text:

117-8 Responsibilities of the Department of Revenue with Respect to Property Taxation and Fees in Lieu of Property Taxes

117-8.1 Purpose

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This regulation seeks to clarify the jurisdiction of the Department of Revenue with respect to property taxation and fees in lieu of property taxes, to establish a set of agreed upon procedures the Department of Revenue will follow in referring matters to the Office of the Comptroller General and in administering its respective area of responsibility, and to establish a guide for county officials to use in interacting with the Department of Revenue on these subjects. These guides and procedures are not intended to be all inclusive and are intended to cover only those areas where doubt has existed between the two agencies and with the local officials. The further purpose of this regulation is to improve the services of the Department of Revenue to the public and to the local county officials who are subject to its supervision. A further goal is to provide consistent, accurate and timely advice to those officials who depend upon this information in order to perform their duties pursuant to law and to be able to deal with the public in a consistent manner.

117-8.2 Department of Revenue Jurisdiction over Functions

A. General Information

Generally speaking, the Department of Revenue (Department or DOR) has jurisdiction over the duties involved with the proper assessment of property for tax purposes and the proper calculation of property taxes, while the Comptroller General supervises the collection of taxes and penalties, and administers the Homestead Tax Exemption Program, including the exemption from school operations found in Section 12-37-251, except for those functions specifically reserved to the DOR.

B. Section 12-4-520

Section 12-4-520 outlines in general terms the area of responsibility granted to the DOR by the General Assembly. Subsections (1) and (2) of that section grant DOR jurisdiction over assessors and county boards of tax appeal. Subsection (3) grants DOR jurisdiction over the assessment and equalization functions. It includes jurisdiction over the "taxation" of property and DOR is granted the power to investigate and take necessary action to insure that those functions are carried out properly. To the extent that it may not have been impliedly repealed, subsection (4) also states that the DOR, as often as annually, shall examine all the books, papers and accounts of assessors, auditors, treasurers and tax collectors, with a view to protecting the interests of the state, counties, and other political subdivisions and rendering these offices aid or instruction.

C. "Gray" Areas

There are "gray" areas as to when the assessment of property for tax purposes and the proper calculation of property taxes ends (DOR) and the collection jurisdiction (Comptroller General) begins. These areas which are not clearly assigned by the statutes are divided by agreement between the two agencies. This regulation formalizes how DOR will handle these issues.

D. Procedure in "Gray Areas"

If a question arises, and it is unclear under the terms of this agreement, or by statute, as to whom the question should be directed, the following applies: (1) if the question involves an assessor or the functions of the assessor, the question will be handled by DOR; (2) if the question involves the duties of the auditor, treasurer, or tax collector, the DOR will first refer the matter to the Comptroller General.

117-8.3 Handling of Matters Within DOR's Jurisdiction

A. Questions and Complaints.

When DOR has jurisdiction over the function complained of or questioned, it will address the complaint or answer the question received from a county official.

B. Areas under the Jurisdiction of DOR.

1. Refunds, except for Homestead Exemption, manufacturers' depreciation reimbursement, and exemption from school operations (Sections 12-37-250, 12-37-935, and 12-37-251).
2. Abatements (except for *nulla bona* actions under Section 12-49-85 and the Homestead Exemption under Section 12-37-250 and the exemption from school operations under 12-37-251).
3. Penalties and interest where DOR has assessment jurisdiction, other than penalties and interest for late payments collected by the counties. (Section 12-37-250 and 12-37-251).
4. Motor Carrier tax collections. (Section 12-37-2810 through 12-37-2880.)
5. Determination of the 80% for property under appeal. (Section 12-60-2550.)
6. Millage and assessment ratios
7. Tax Bills and Notices
8. Exemptions, other than the Homestead Exemption and the exemption from school operations (Sections 12-37-250 and 12-37-251).
9. Extension of time for the performance of the duties imposed upon the assessors and auditors for the valuation of property for tax purposes, unless specific statutory provisions indicate otherwise. (Section 12-4-520(6).)
10. Postponement of the time for the imposition of penalties, when the Comptroller General extends the time for the collection of taxes. (Section 12-4-520(6).)
11. Supervisory authority over the values to be placed upon the duplicate: Tax Map Numbers, assessments and valuations, millage computation processes, exemptions - except those administered by the Comptroller General - assessment ratios and other required data. Sections 12-4-520, 12-4-530, 12-39-260, and Regulation 117-117.

C. Duties of County Auditors that DOR will refer to the Comptroller General.

1. Continuing education requirements. Section 12-39-15.
2. Completion of county tax books and opening date. Sections 12-39-140 and 12-39-150.
3. Compiling the duplicate and the form of the duplicate. Sections 12-39-150, 190, 200.
4. *Nulla Bona* actions. Section 12-49-85.
5. The Homestead Tax Exemption Program (Section 12-37-250 *et seq.*, to include Section 12-37-251, except for those functions in Section 12-37-251 reserved to the Department of Revenue);
6. Annual tax reports. Sections 12-39-140 and 12-45-300.
7. Forfeited Land Commission. Section 12-51-55.

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D. Duties of County Treasurers that DOR will refer to the Comptroller General

1. Media of payment of taxes. Section 12-45-90.
2. Apportionment of taxes and costs. Sections 12-45-140 through 170.
3. Time for the payment or collection of taxes. Sections 12-45-70 and 12-4-520(6).
4. Collections and executions. Section 12-45-180.
5. Annual tax reporting. Section 12-45-300.
6. Treasurers' and tax collectors' delegation of duty to seize property. Section 12-45- 400.
7. Partial and installment payments and application of payments of delinquent taxpayers. Sections 12-45-410 and 12-45-75.
8. Enforced collections. Generally Chapters 49 and 51 of Title 12.
9. Penalties and interest, except for those instances under DOR responsibility.
10. Homestead tax exemptions. Section 12-37-250 through 12-37-295, including the exemption from school operations in Section 12-37-251, except for those functions in Section 12-37-251 specifically reserved to the Department of Revenue.
11. Business inventory tax and manufacturers depreciation reimbursements. Section 12-37-450 and Section 12-37-935.
12. The collection of Motor Vehicle Taxes, other than Motor Carrier taxes. (The Department of Revenue is charged with all aspects of the collection of motor carrier property taxes. Sections 12-37-2810 through 2880.)
13. County treasurers' continuing education requirements. Section 12-45-15.
14. Forfeited Land Commission. Section 12-59-10.

E. Procedures.

The procedures to be used by DOR are as follows:

Upon receipt of letter or call requesting information:

- (1) Determine if inquiry is under jurisdiction of DOR;
- (2) Refer inquiry to the Comptroller General when it is the appropriate agency; and
- (3) All responses under DOR's jurisdiction will be made by DOR, with a copy to the Comptroller General.

Fiscal Impact Statement:

There will be no impact on state or local political subdivisions expenditures in complying with this legislation.