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# SOUTH CAROLINA STATE REGISTER

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of the  
GENERAL ASSEMBLY

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

# ***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.

## **2001 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	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

## **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.

X-----X-----X

## 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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**REGULATIONS SUBMITTED TO GENERAL ASSEMBLY**

Status and Legislative Review Expiration Dates ..... 1

**GOVERNOR’S EXECUTIVE ORDERS**

No. 2001-03 State of Emergency - Uninterrupted Supply of Fuel Oil, Kerosene and Liquefied Petroleum Gas..... 3

No. 2001-04 Executive Order 2000-30 Cancelled. Election on April 3, 2001 for the St. Andrews Public Service District, Charleston County. .... 4

No. 2001-05 Date Extended for the Final Report and Recommendation from the South Carolina Commission on Teacher Quality ..... 5

No. 2001-06 Date Extended for the South Carolina Middle Grades Task Force Final Report ..... 5

**NOTICES**

**DEPARTMENT OF EDUCATION**

Public Hearings Scheduled for Proposed Regulations: Doc. No. 2590, Repeal of R.43-237, Adult Education Curriculum, Doc. No. 2592, Repeal of R. 43-237.2, State Plan for Adult Education, 1989-1998, and Doc. No. 2591, R. 43-237.1, Adult Education Program ..... 6

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**

Certification of Need ..... 6

Notice of Cancellation and Rescheduling of Public Hearing on Document No. 2593, Nitrogen Oxides..... 8

Underground Storage Tanks ..... 9

**LABOR, LICENSING AND REGULATION, DEPARTMENT OF**

**Manufactured Housing Board**

Licensing of Managers at Retail Sales Lots..... 10

**Medical Examiners, Board of**

Ophthalmic Pre-Operative Assessment and Post-Operative Care ..... 10

Sale by Physicians of Health-Related Products in Physicians’ Offices ..... 11

Sale or Promotion to Patients of Non-Health-Related Goods or Services From Practice Site ..... 12

**Occupational Safety and Health Standards**

Recording and Reporting Occupational Injuries and Illnesses, General Industry, Construction..... 13

**NOTICES OF DRAFTING REGULATIONS**

**ADJUTANT GENERAL**

Student Loan Repayment Program ..... 14

**CONSUMER AFFAIRS, DEPARTMENT OF**

Licensing of Staff Leasing Services..... 14

**HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF**

Standards for Permitting of Agricultural Animal Facilities ..... 15

Standards for Licensing Hospices..... 16

## TABLE OF CONTENTS

### LABOR, LICENSING AND REGULATION, DEPARTMENT OF Manufactured Housing Board

Licensure of Retail Managers: .....	17
-------------------------------------	----

### NATURAL RESOURCES, DEPARTMENT OF

Drought Response.....	17
-----------------------	----

### SECRETARY OF STATE

Electronic Signatures .....	18
-----------------------------	----

## PROPOSED REGULATIONS

### BUDGET AND CONTROL BOARD

Document No. 2609	State Human Resources Regulations .....	19
-------------------	---	----

### EDUCATION, STATE DEPARTMENT OF

Document No. 2613	Assessment Program.....	22
Document No. 2566	Graduation Requirements .....	24
Document No. 2607	Special Education for Students with Disabilities.....	26

### HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Document No. 2614	Office of Ocean and Coastal Resource Management: Definitions, Applying for a Permit, Specific Project Standards for Tidelands and Coastal Waters .....	28
Document No. 2615	Water Pollution Control Permits.....	32
Document No. 2616	Well Standards.....	50
Document No. 2612	Office of Elevator and Amusement Ride Safety: Fee Schedules.....	56

### PUBLIC SAFETY, DEPARTMENT OF

Document No. 2610	In Car Camera Videotaping Equipment.....	57
Document No. 2611	Highway Patrol Wrecker Regulations .....	58

## FINAL REGULATIONS

### EDUCATION, BOARD OF

Document No. 2502	Operation of Public Pupil Transportation Services.....	60
Document No. 2481	Operation of Public Pupil Transportation Services.....	61

### HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Document No. 2504	Environmental Protection Fees .....	62
-------------------	-------------------------------------	----

**REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1**

In order by General Assembly review expiration date  
 The history, status, and full text of these regulations are available on the  
 South Carolina General Assembly Home Page: [www.lpittr.state.sc.us](http://www.lpittr.state.sc.us)

DOC NO.	RAT NO.	FINAL SR	SUBJECT	EXP. DATE	AGENCY
1981	SR25-1		Policy Development	1 12 01	Board of Education
1984	SR25-1		Principal Evaluation	1 12 01	Board of Education
2481	SR25-2		School Transportation	1 24 01	Board of Education
2504	SR25-2		Environmental Protection Fees	1 27 01	Health and Environmental Control
2502	SR25-2		Public Pupil Transportation Services	2 04 01	Board of Education
2485			(Repeal) Credit and Discount Plans	2 20 01	Dept of Insurance
2487			(Repeal) Merit Rating Plan	2 20 01	Dept of Insurance
2486			(Repeal) Refusal to Write, Cancellation	2 20 01	Dept of Insurance
2511			Hunt Units and WMA's	2 20 01	Dept Natural Resources
2503			Optional State Supplementation Prog	2 27 01	Health and Human Services
2507			Repayment	3 06 01	Higher Education, Student Loan Corp
2514			LIFE, Palmetto Fellows Sch Appeals	3 12 01	Commission on Higher Education
2521			(Repeal) Loan Eligibility Requirements	3 24 01	Jobs-Economic Development Authority
2497			Quarantine of Garbage Fed Swine	4 22 01	Clemson University
2496			Brucellosis Testing	4 22 01	Clemson University
2530			Waste Disp Sites, Landfill Design, Const	5 09 01	Dept of Health and Envir Control
2532			SWM: Off Site Treatment Contam Soil	5 09 01	Dept of Health and Envir Control
2528			Adjustment of Dollar Amounts	5 09 01	Board of Financial Institutions
2548			Contact with Patients Before Prescribing	5 09 01	LLR: Board of Medical Examiners
2549			Registration of Licenses	5 09 01	LLR: Long Term Health Care Admin
2550			Physician Supervision of Nurses	5 09 01	LLR: Board of Medical Examiners
2526			Licensure Requirements	5 09 01	LLR: Board of Professional Counselors...
2538			X-Rays (Title B)	5 09 01	Dept of Health and Envir Control
2579			Practices of Real Estate Appraisers	5 09 01	LLR: Real Estate Appraisers Board
2575			Forms of Practice	5 09 01	LLR: Board of Accountancy
2531			Stds Lic Fac Chem Depend/Addicted Per	5 09 01	Dept of Health and Envir Control
2576			Continuing Education	5 09 01	LLR: Board of Architectural Exam
2551			Valuation of Life Insurance Policies	5 09 01	Department of Insurance
2578			Official Identification	5 09 01	LLR: Board of Nursing
2553			Annuity Mortality Tables	5 09 01	Dept of Insurance
2525			Adjustment of Dollar Amounts	5 09 01	Dept of Consumer Affairs
2574			Practices of Auctioneers Comm	5 09 01	LLR: Auctioneers Commission
2547			Seed Certification Standards	5 09 01	Clemson University/Crop Pest Comm
2585			Reduct, Expan, Consolid, Closure, Instit	5 09 01	Higher Education, Commission on
2558			Principal Evaluation Program	5 09 01	Board of Education
2559			STAR Diploma	5 16 01	Board of Education
2572			Water Classifications and Standards	5 16 01	Dept of Health and Envir Control
2523			Sales Tax: Med, Prosthetic, Hearing Aids	5 23 01	Dept of Revenue
2563			Definition of Facility Chap 6, Title 12	5 23 01	Dept of Revenue
2561			Definition of Facility Chap 37 Title 12	5 23 01	Dept of Revenue
2562			Definition of Facility Chap 117 Title 12	5 23 01	Dept of Revenue
2564			Accreditation Criteria	5 23 01	Board of Education
2533			Criminal Justice Information System	5 29 01	Law Enforcement Division
2583			Reinsurance Facility Recoupment	5 29 01	Dept of Insurance



## 2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

2552	Adjustment of Claims Unusual Circumstances	5 29 01	Dept of Insurance
2569	Types and Levels of Credential Classification	5 31-01	Board of Education
2568	Teaching Experience Acceptable for Credit	5 31 01	Board of Education
2571	Other Experience Acceptable for Credit	5 31 01	Board of Education
2565	Computing the Experience of Teachers	5 31 01	Board of Education
2567	Req for Additional Area of Certification	5 31 01	Board of Education
2570	Student Teachers	5 31 01	Board of Education
2596	Port of Charleston: Short Branch Qualif	6 01 01	LLR: Comm of Pilotage
2595	Chapter Revision	6 01 01	LLR: Engineers & Land Surveyors
2597	Admission of Expert's Report as Evidence	6 05 01	Workers' Compensation
2580	Service Contracts	6 05 01	Dept of Insurance
2582	Captive Insurance Companies	6 05 01	Dept of Insurance
2541	Lic Comm Residential Care Facilities	6 13 01	Dept of Health and Envir Control
2581	Continuing Insurance Education	6 15 01	Dept of Insurance

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

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

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

DOC NO.	DATE	SUBJECT	AGENCY
2193	2 11 98	Video Poker; Def "Single Place" ...	Dept of Revenue
2457	1 23 01	Septic Tank Site Evaluation Fees	Dept Health and Envir Control
2518	1 25 01	Perinatal Care	Dept of Health and Envir Control

### RESOLUTION INTRODUCED TO DISAPPROVE (120 DAY REVIEW PERIOD TOLLED)

DOC NO.	DATE	SUBJECT	AGENCY
2360	1 17 01	LIFE Scholarship	Higher Education

### WITHDRAWN:

DOC NO.	DATE	SUBJECT	AGENCY
2433	1-31-01	Hearing Aids; Augmen Comm Devices	LLR: Speech-Language Path & Audio
2469	1-31-01	Volunteer Pharm Tech Free Med Clinics	LLR: Board of Pharmacy

**2001-03**

**WHEREAS**, the uninterrupted supply of Fuel Oil, Kerosene and Liquefied Petroleum Gas (propane) as to residential and commercial establishments is an essential need of the public during the wintertime and any interruption threatens the public welfare; and

**WHEREAS**, the continued period of inclement weather has increased the demand for Fuel Oil, Kerosene and Liquefied Petroleum Gas and threatened the uninterrupted delivery of Fuel Oil, Kerosene and Liquefied Petroleum Gas to residential and commercial customers; and

**WHEREAS**, Federal Motor Carrier Safety regulations, 49 CFR 395.3(b), limit the hours operators of commercial vehicles may drive; and

**WHEREAS**, 49 CFR 390.23 allows the Governor to suspend these rules and regulations limiting the hours operators of commercial vehicles may drive for 30 days if the Governor determines that an emergency condition exists.

**NOW, THEREFORE**, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina and of the United States of America, I hereby declare a State of Emergency due to the inclement weather and the need to continue the uninterrupted supply of Fuel Oil, Kerosene and Liquefied Petroleum Gas. This emergency justifies an exemption from Part 395.3(b) of Title 49 of the Code of Federal Regulations as authorized by federal law. This emergency shall remain in effect for 30 days or until the emergency condition ceases to exist, whichever is less.

Nothing herein shall be construed as an exemption from the Controlled Substances and Alcohol Use and Testing in 49 CFR 382, the Commercial Driver's License requirements in 49 CFR 383, the financial responsibility requirements in 49 CFR 387, or applicable federal size and weight limitations.

This Executive Order, which shall take effect immediately, hereby supersedes Executive Order No. 2001-02.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF  
THE STATE OF SOUTH CAROLINA, THIS 19th DAY OF  
JANUARY, 2001.**

**JIM HODGES  
Governor**

## 4 EXECUTIVE ORDERS

2001-04

**WHEREAS**, in the general election held on November 7, 2000, the voting machines in the St. Andrews Public Service District precincts failed to allow electors to vote for the candidate of their choice in each of the two district wide races; and

**WHEREAS**, the Charleston County Election Commission, competent authority, declared the election void; and

**WHEREAS**, the Charleston County Election Commission has requested a new election pursuant to Section 7-13-1170 of the South Carolina Code of Laws; and

**WHEREAS**, Section 7-13-1170 of the South Carolina Code of Laws provides “. . . 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**, pursuant to Executive Order No. 2000-30 on November 17, 2000, I declared February 12, 2000 the date for the St. Andrews Public Service District election; and

**WHEREAS**, another date is necessary for the St. Andrews Public Service District election.

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

- a. Declare that Executive Order No. 2000-30 is cancelled, rescinded and from this date declare null and void; and
- b. Order that an election for the St. Andrews Public Service District be held in Charleston County, for such offices as are due to be filled as provided by law, on April 3, 2001 as permitted by the United States Department of Justice; and
- c. Designate the Charleston County Election Commission to perform the necessary official duties pertaining to the election and to declare the result in carrying out the directives of this Executive Order.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF  
THE STATE OF SOUTH CAROLINA, THIS 9th DAY OF  
FEBRUARY, 2001.**

**JIM HODGES**  
Governor

**2001-05**

**WHEREAS**, in Executive Order 99-38, I established the South Carolina Commission on Teacher Quality and charged it with the responsibility of providing me with a final report and recommendation by September 1, 2000; and

**WHEREAS**, the Commission on Teacher Quality should have a full opportunity to evaluate the options available to our State in addressing the fundamental issue of educating our children.

**NOW, THEREFORE**, I hereby extend the time for the Commission to provide me with a final report from September 1, 2000 to July 1, 2001.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 9th DAY OF FEBRUARY, 2001.**

**JIM HODGES  
GOVERNOR**

**2001-06**

**WHEREAS**, in Executive Order 99-39, I established the South Carolina Middle Grades Task Force and charged it with the responsibility of providing me with a final report by September 1, 2000; and

**WHEREAS**, the Task Force should have a full opportunity to evaluate the options available to our State in addressing the middle grades students academic achievement.

**NOW, THEREFORE**, I hereby extend the time for the Task Force to provide me with a final report from September 1, 2000 to April 16, 2001.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 9th DAY OF FEBRUARY 2001.**

**JIM HODGES  
GOVERNOR**

## 6 NOTICES

### BOARD OF EDUCATION PUBLIC NOTICE

Doc. No. 2590, Proposed Repeal of R. 43-237, Adult Education Curriculum  
Doc. No. 2592, Proposed Repeal of R. 43-237.2, State Plan for Adult Education, 1989-1998  
Doc. No. 2591, Proposed Amendment of R. 43-237.1, Adult Education Program

The State Board of Education will consider its proposed regulations 43-237, Adult Education Curriculum; 237.1, Adult Education Program, and 237.2, Adult Education State Plan.. A public hearing will be held on Tuesday, April 10, 2001, at 10:30 A.M., 1429 Senate St., Rutledge Building. The proposed regulations were published in the *State Register* on December 22, 2000, in Volume 24, Issue 12.

### 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, February 23, 2001, 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 Aiken County

Establishment of a diagnostic center to include a CT Scanner and a Magnetic Resonance Imaging (MRI) Unit.  
The Imaging Center of Aiken  
Aiken, South Carolina  
Project Cost: \$2,562,636

#### Affecting Greenville County

Construction of a free-standing ambulatory surgery center with two (2) general operating rooms, one (1) urology operating room, and one (1) endoscopy suite.  
The Greer Surgery Center  
Greer, South Carolina  
Project Cost: \$5,811,506

#### Affecting Horry County

Lease of a mobile Positron Emission Tomography (PET) Scanner.  
Grand Strand Regional Medical Center  
Myrtle Beach, South Carolina  
Project Cost: \$481,000

#### Affecting Richland County

Addition of a diagnostic cardiac catheterization laboratory in the existing physician's office for a total of two (2) diagnostic cardiac catheterization laboratories.  
South Carolina Heart Center, P.A.  
Columbia, South Carolina  
Project Cost: \$1,220,000

## Affecting York County

Establishment of a freestanding ambulatory surgery center with four (4) endoscopy rooms restricted to gastroenterology procedures only.

Digestive Disease Endoscopy Center, Inc.

Rock Hill, South Carolina

Project Cost: \$2,924,067

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 February 23, 2001. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, SC 29201. For further information call (803) 737-7200.

## Affecting Charleston County

Establishment of a freestanding ambulatory surgery center with four (4) endoscopy rooms restricted to gastroenterology procedures only.

Charleston Endoscopy Center

Charleston, South Carolina

Project Cost: \$2,933,993

Establishment of a freestanding ambulatory surgery center with two (2) endoscopy rooms restricted to gastroenterology procedures only.

East Cooper Endoscopy Center

Mt. Pleasant, South Carolina

Project Cost: \$1,979,555

## Affecting Horry County

Establishment of a fifty-five (55) bed residential treatment facility for children and adolescents.

Carolina Youth Academy

Conway, South Carolina

Project Cost: \$4,198,595

**PUBLIC NOTICE**

The South Carolina State Health Planning Committee will hold public hearings on the Draft 2001 South Carolina Health Plan at the following times and locations:

Monday, March 26, 2001, 11:00 a.m. until 12:00 noon, Otranto Road Branch Library Auditorium, 2261 Otranto Road, North Charleston, South Carolina;

Tuesday, March 27, 2001, 11:00 a.m. until 12:00 noon, Greenville County Council Chambers, 301 University Ridge, County Square, Greenville, South Carolina;

Thursday, March 29, 2001, 11:00 a.m. until 12:00 noon, Florence Health Department Auditorium, 145 East Cheves Street, Florence, South Carolina;

Friday, March 30, 2001, 11:00 a.m. until 12:00 noon, second floor conference room of the Heritage Building, 1777 St. Julian Place, Columbia, South Carolina;

## 8 NOTICES

The State Health Planning Committee is also soliciting comments pertaining to the use of Trauma Centers by residents outside of the county where the Trauma Center is located. The Committee is concerned that hospitals in counties where patients are referred from are reluctant to take the patients back after their level of care improves. It appears that the trauma centers and residents of counties where the trauma centers are located have to subsidize these patients, which causes a financial hardship on the Trauma Center.

Written comments will be received through March 30, 2001. The draft plan will be available for public review after February 23, 2001, from the state documents depository librarian in the following locations:

South Carolina State Library  
1500 Senate Street  
Columbia, SC 29211

Larry A. Jackson Library  
Lander University  
Stanley Avenue  
Greenwood, SC 29646

Robert Scott Small Library  
College of Charleston  
66 George Street  
Charleston, SC 29424

Miller A. Whittaker Library  
S. C. State University  
Orangeburg, SC 29117

Robert Muldrow Cooper Library  
Clemson University  
Clemson, SC 29634-3001

Spartanburg County Library  
333 S. Pine Street  
Spartanburg, SC 29304

James A. Rogers Library  
Francis Marion University  
Florence, SC 29501

Greenville County Library  
300 College Street  
Greenville, SC 29601

USC-Beaufort Library  
800 Carteret Street  
Beaufort, SC 29902

Kimbel Library  
USC-Coastal Carolina  
Highway 501  
Conway, SC 29526

Ida Jane Dacus Library  
Winthrop University  
810 Oakland Avenue  
Rock Hill, SC 29733

USC-Aiken Library  
171 University Parkway  
Aiken, SC 29801

Comments on the plan may be presented at the public hearings or submitted to the S.C.State Health Planning Committee, S.C. Department of Health and Environmental Control, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 through March 30, 2001. For additional information, call (803) 737-7200.

### **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING**

Document No. 2593

R.61-62.96, Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program, and R.61-62.99, Nitrogen Oxides (NO<sub>x</sub>) Budget Program Requirements for Stationary Sources Not In the Trading Program and the South Carolina State Implementation Plan

The Department of Health and Environmental Control (Department) published a notice in the South Carolina State Register on December 22, 2000, of its intent to amend Regulation 61-62, *Air Pollution Control Regulations and Standards*, and the South Carolina State Implementation Plan (SIP) by adding Regulation 61-62.96, *Nitrogen Oxides (NO<sub>x</sub>) Budget Trading Program*, and Regulation 61-62.99, *Nitrogen Oxides (NO<sub>x</sub>) Budget Program Requirements for Stationary Sources Not In the Trading Program*. In that notice, the Department announced the date of February 8, 2001, for a public hearing before the Department of Health and Environmental Control Board concerning the proposed amendment. On January 26, 2001, the Department published another notice in the South Carolina State Register announcing the cancellation of the public hearing on February 8, 2001, and rescheduling the public hearing to March 8, 2001. The purpose of this notice is to again cancel the date and reschedule the public hearing to April 12, 2001.

The public hearing will be held at the regularly-scheduled Board meeting on April 12, 2001, in the Auditorium of the Florence County Health Department at 145 E. Cheves St., Florence, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearing on April 12, 2001, will be noticed in the Board's agenda to be published by the Department 10 days in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulations and the SIP revision. Questions concerning this notice should be addressed to Heather S. Preston, Bureau of Air Quality at (803) 898-4287.

## 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 March 26, 2001 to:

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

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

Class I  
 Enviro South, Inc.

Class II  
 Hobcaw Geological, Inc.



## 10 NOTICES

### DEPARTMENT OF LABOR, LICENSING AND REGULATION MANUFACTURED HOUSING BOARD NOTICE

In accordance with S.C. Code Ann. Section 1-23-40, notice is hereby given that the South Carolina Manufactured Housing Board has adopted the following statement regarding the licensing of managers at retail sales lots under the South Carolina Uniform Standards Code for Manufactured Housing Act. For disciplinary purposes in matters before the Board, compliance with this statement will not be considered a violation of the Act under S. C. Code Ann. Section 40-29-150 and the Regulations of the Board.

#### **Retail Managers**

The South Carolina Manufactured Housing Board interprets the definition of retail salesperson to include retail managers. For purposes of this policy, a retail manager is any person who has the authority to act on behalf of a retail dealer in the management of a retail center or to supervise any function that requires a retail salesperson license.

Activities which indicate a person is a manager include, but are not limited to: the general supervision of a retail center; the authority to approve purchase agreements or other contracts; the practice of receiving funds on behalf of the retail dealer; the approval of advertising; and the hiring, firing, supervision or compensation of salespersons.

The Board notes that the manager must have a retail salesperson license and is responsible, as is the retail dealer, for any activities (1) carried out by the manager related to the operation of the retail center or (2) carried out by anyone acting in an area supervised by the manager.

The Board further notes that a person who holds himself out to the consumer as the dealer's representative for the purpose of obtaining financing falls under the definition of retail salesperson.

### BOARD OF MEDICAL EXAMINERS NOTICE

In accordance with S.C. Code Ann. Section 1-23-40, notice is hereby given that the South Carolina Board of Medical Examiners has adopted the following statement regarding ophthalmic pre-operative assessment and post-operative care for patients as guidance for licensed physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics, as adopted by the Board. For disciplinary purposes in matters before the Board, compliance with this statement will not be considered a violation of the physician's professional duty to provide competent medical service under S. C. Code Ann. Sections 40-47-200(F)(7), (8), (12) or Regulation 81-60(A), (B), (C), and (E) of the Principles of Medical Ethics, adopted by the Board.

#### **Policy:**

#### **Ophthalmic Pre-Operative Assessment and Post-Operative Care**

The ophthalmic surgeon has the primary responsibility for the pre-operative assessment and the post-operative care of his/her patients regardless of the type of surgery performed. For most ophthalmic surgery, this includes an examination on the first post-operative day by the operating surgeon or another medical doctor of equal skills and training.

The surgeon should follow the patient until post-operatively stable and there is no fixed time when the patient is sent back to the referring provider.

If a situation arises in which the surgeon concludes that the delegation of post-operative care is in the patient's best interest, then the surgeon should pre-operatively inform the patient of the pre-arranged plans and the patient must voluntarily consent to this in writing. This consent process should include the reason for the transfer of the case, the qualifications of the healthcare provider who will render the post-operative care, and any special risks that may result from this arrangement.

The transfer of care must not occur unless it is clinically appropriate and in the patient's best interest.

The co-management must not be done as a matter of routine policy on all patients.

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

### **BOARD OF MEDICAL EXAMINERS NOTICE**

In accordance with the S.C. Code Ann. Section 1-23-40, notice is hereby given that the South Carolina Board of Medical Examiners has adopted the following statement regarding the sale by South Carolina physicians of health-related products in physicians' offices as guidance for licensed physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics, as adopted by the Board.

#### **Policy:**

"Health-related products" are any products that, according to the manufacturer or distributor, benefit health. "Selling" refers to the activity of dispensing items that are provided from the physician's office in exchange for money and includes the activity of endorsing a product that the patient may order or purchase elsewhere that results in direct remuneration for the physician. This Policy does not apply to the sale of prescription items.

In-office sale of health-related products by physicians presents a financial conflict of interest, risks placing undue pressure on the patient, and threatens to erode patient trust and undermine the primary obligation of physicians to serve interests of their patients before their own.

(1) Physicians who choose to sell health-related products from their offices should not sell a product whose claims of benefit lack scientific validity. Physicians should rely on peer-reviewed literature and other unbiased scientific sources that review evidence in a sound, systematic and reliable fashion.

(2) Because of the risk of patient exploitation and the potential to demean the profession of medicine, physicians who choose to sell health-related products from the office must take steps to minimize financial conflicts of interest utilizing the following guidelines:

(a) In general, physicians should limit sales to products that serve the immediate and pressing needs of their patients. For example, if traveling to the closest pharmacy would in some way jeopardize the welfare of a patient with a broken leg requiring crutches, then it may be appropriate to provide the product from the physician's office.

(b) Physicians may distribute health-related products to their patients free of charge or at cost in order to make useful products readily available to their patients. When health-related products are offered free or at cost, it helps ensure removal of the elements of personal gain and financial conflicts of interest.

## 12 NOTICES

(3) Physicians must disclose fully the nature of their financial arrangement with a manufacturer or supplier to sell health-related products. Disclosure includes informing patients of financial interests as well as availability of the product elsewhere. Disclosure can be accomplished through face-to-face communication, or by posting an easily understandable written notification in a prominent location in the office. Physicians should, upon request, provide patients with understandable literature in addressing the risks, benefits and limits regarding the health-related product.

(4) Physicians should not participate in exclusive distributorships of health-related products that are available only through physicians' offices. Physicians should encourage manufacturers to make products of established benefit more widely accessible to patients than exclusive distribution mechanisms allow.

### BOARD OF MEDICAL EXAMINERS NOTICE

In accordance with the S.C. Code of Laws, Ann. Section 1-23-40, notice is hereby given that the South Carolina Board of Medical Examiners has adopted the following statement regarding the sale or promotion to patients of non-health-related goods or services from a licensed South Carolina physician's practice site as guidance for physicians in the practice of medicine under the South Carolina Medical Practice Act and the Principles of Medical Ethics as adopted by the Board.

#### **Policy:**

The sale or promotion of non-health-related goods or services by physicians presents a conflict of interest and threatens to erode the primary obligation of physicians to serve the interests of their patients before their own. This activity risks placing undue pressure on the patient and risks demeaning the practice of medicine.

A licensee shall be deemed to engage in dishonorable conduct by offering to sell or promote a non-health-related product or service to a patient from a location at which the licensee regularly practices the healing arts unless otherwise allowed as follows:

A licensee shall not be deemed to engage in dishonorable conduct by offering to sell or promote a non-health-related product or service if all of the following conditions are met:

- (1) The sale or promotion is for the benefit of a public service organization
- (2) The sale or promotion does not directly or indirectly result in financial gain to the licensee.
- (3) No patient is unduly influenced to make a purchase.
- (4) Such sale or promotions are not a regular part of the licensee's business.
- (5) Such sales or promotions are conducted in a dignified manner.

A licensee shall be deemed to engage in dishonorable conduct if the licensee, at a location of regular practice of the healing arts, recruits or solicits a patient to participate in a business opportunity involving the sale or promotion of a product or service, or if the licensee requires the patient to recruit or solicit others to participate in a business opportunity, and the sale or promotion of the product or service directly or indirectly results in financial gain to the licensee.

Section 40-47-200(F)(8) of the South Carolina Medical Practice Act authorizes the Board to discipline a licensed South Carolina physician who is guilty of engaging in dishonorable, unethical or unprofessional conduct that is likely to deceive, defraud, or harm the public.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

## NOTICE OF PUBLIC HEARING

## OCCUPATIONAL SAFETY AND HEALTH STANDARDS

The South Carolina Department of Labor, Licensing, and Regulation (LLR) does hereby give notice under Section 41-15-220, S.C. Code of Laws, 1976, as amended, that a public hearing will be held on April 4, at 10:00 a.m. at the S.C. Department of LLR, 2nd floor, room 202, 3600 Forest Drive, Columbia, S.C., at which time interested persons will be given the opportunity to appear and present views on the occupational safety and health standards being considered for adoption, which are as follows:

In Subarticle 3 ( Recording and Reporting Occupational Injuries and Illnesses)

Revision to Subarticle 3.

In Subarticle 6 (General Industry)

New 1910.900, Ergonomics Program Standard with Appendices A—E.

Revisions to 1910.1030, Bloodborne Pathogens.

Revisions to 1910.1043, Cotton Dust

In Subarticle 7 (Construction)

New 1926. Subpart R, Steel Erection

Any omissions or corrections to the occupational safety and health standards being considered for adoption published in the FEDERAL REGISTER prior to this hearing may be presented at this hearing. These revisions are necessary to comply with federal law and copies of them can be obtained or reviewed at the S.C. Department of LLR during normal business hours by contacting the Public Information Office at (803) 896-4380.

Persons desiring to speak at the hearing shall file with the Director of LLR a notice of intention to appear and the approximate amount of time required for her/his presentation on the particular matter no later than March 28, 2001. Any person who wishes to express her/his views, but is unable or does not desire to appear and testify at the hearing, should submit those views to the undersigned in writing on or before March 28, 2001.

## 14 DRAFTING

### ADJUTANT GENERAL

#### CHAPTER 2

Statutory Authority: 1976 Code Section 59-111-75

#### **Notice of Drafting:**

The Office of the Adjutant General proposes to draft a new regulation that addresses the loan repayment program whereby talented and qualified State residents may attend State public or private colleges or universities for the purpose of providing incentives for enlisting or remaining in the South Carolina National Guard. Interested persons may submit comments to LTC Glenn Addison, Headquarters, South Carolina Air National Guard, 1325 South Carolina Road, Eastover, South Carolina 29044. To be considered, comments must be received no later than 5:00 p.m. on March 31, 2001, the close of the drafting comment period.

#### **Synopsis:**

The General Assembly passed the Student Loan Repayment Program (Section 59-111-75) that establishes a State administered program where qualified South Carolinians may receive tuition assistance in return for enlisting or re-enlisting in the South Carolina National Guard. The program, administered by the Adjutant General, in consultation with the South Carolina Student Loan Corporation, must develop a loan repayment program and define the limitations on monetary repayment amounts, successful participation with in the National Guard, successful school matriculation, and other requirements for participation in the loan repayment program. In case of failure to complete the term of enlistment, failure to successfully participate in the National Guard, noncompliance by the borrower with the terms of the loan, or failure to comply with regulations of the program, the borrower's participation in the loan repayment program may be terminated and the borrower remains subject to those provisions as provided in the loan documents.

The proposed regulation will address the specifics and standards of the student loan repayment program. Criteria, procedures and standards will be developed.

Legislative review of this proposal will be required.

### DEPARTMENT OF CONSUMER AFFAIRS

#### CHAPTER 28

Statutory Authority: 1976 Code Section 40-68-20

#### **Notice of Drafting:**

The South Carolina Department of Consumer Affairs proposes to revise existing Regulations 28-910, 28-920, 28-940, 28-955, and 28-990 as they relate to the licensing of staff leasing services companies. In addition, the Department proposes to draft new regulations, Regulations 28-915, 28-933, 28-936, and 28-956, that also address the licensing of staff leasing services companies. Interested persons may submit comments in writing to Mr. Herbert Walker, Deputy Director for Administrative and Regulatory Services, P.O. Box 5757, Columbia, SC 29250-5757. Written comments must be received no later than 5:00 pm on Monday, March 26, 2001, the close of the comment period.

#### **Synopsis:**

In accordance with Section 40-68-20 of the 1976 Code, revisions to existing regulations for staff leasing services companies are being considered as follows: Revisions to Regulation 28-910 are being considered to change the Department's office address to 3600 Forest Drive, Third Floor, Columbia, SC 29204. Applicants who wish to obtain application materials from the office can visit this address. Revisions to Regulation 28-910 are also being considered to change the Department's procedures for handling incomplete/deficient applications. Applicants will be required to correct noted deficiencies within ninety days from the date of notification without penalty.

Revisions to Regulation 28-920 are being considered to change the type of documentation required from licensees to verify gross South Carolina payroll for annual assessment purposes. In addition, the Department is considering establishing a late payment penalty for assessment fees not paid by the Department's April 30 deadline. Revisions to Regulation 28-940 are being considered to change the submission date for Quarterly Financial Reports from 75 days to 45 days after the end of each quarter. The Department is also considering establishing a late reporting fee for quarterly reports submitted after the established deadlines. A revision is also being considered for Regulation 28-955 to exempt applicants who are qualified and approved for a restricted license from normal requirements for licensure. Revisions to Regulation 28-990 are being considered to establish disciplinary guidelines for client companies that do business with unlicensed staff leasing companies.

In accordance with Section 40-68-20 of the 1976 Code, the Department proposes to draft new regulations for staff leasing services companies. The Department proposes to draft Regulation 28-915 to establish procedures for license renewal. The new regulation will require renewal applications to be submitted within sixty days of the license's expiration date. In addition, Regulation 28-915 will limit the period of time that a licensee can operate without renewing their license before a penalty is assessed and the license is voided by the Department. Regulation 28-933 is drafted to require that annual audited financial statements be submitted to the Department for staff leasing companies with \$2,500,000.00 or more in gross South Carolina payroll. This new regulation is also drafted to require that financial statements be submitted in a form prescribed by the Department. Additionally, Regulation 28-936 is also a new regulation and is drafted to allow annual reviewed financial statements to be submitted for staff leasing companies with less than \$2,500,000.00 in gross South Carolina payroll. The Department also proposes to draft Regulation 28-956 to establish procedures for certain staff leasing companies that meet specific requirements to operate by notification only.

In accordance with Section 40-68-20 of the 1976 Code, revisions to existing regulations for staff leasing services companies are being considered to change the Department's procedures for handling incomplete/deficient applications. Applicants will be required to correct noted deficiencies within ninety days from the date of notification without penalty. Revisions are also being considered to change the type of documentation required of licensees to verify gross South Carolina payroll for annual assessments. In addition, the Department is considering establishing a monetary penalty for assessment fees not paid by the Department's April 30 deadline. Revisions are being considered to change the submission date for Quarterly Financial Reports from 75 to 45 days after the end of each quarter. The Department is also considering establishing a late reporting fee for quarterly reports submitted after the deadline.

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

Statutory Authority: 1976 Code Sections 48-1-30 and 47-20-165

**Notice of Drafting:**

The South Carolina Department of Health and Environmental Control proposes to amend regulation 61-43, *Standards for the Permitting of Agricultural Animal Facilities*. Notices of Drafting for the proposed revisions were published in the State Register on November 26, 1999 and July 28, 2000. The Department is reissuing the Notice of Drafting to extend the time frame needed for development of the regulations. Interested persons may submit written comments to Alton Boozer, Bureau Chief, Bureau of Water, SC Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, all written comments must be received no later than 5:00 p.m. on March 26, 2001, the close of the drafting comment period. Comments received from the previous two Notices of Drafting as well as this current reissuance will be considered.

**Synopsis:**

The Department is proposing to revise R.61-43 by replacing Part 100 (Swine Facilities) in its entirety and modifying Parts 200 (Other Animal Facilities) and Part 300 (innovative & Alternative Technology). The

## 16 DRAFTING

proposed amendments will address the permitting requirements for commercial agricultural animal production facilities, including the residual materials. The amended regulation will address the following:

1. Swine operations.
2. Poultry (including broiler, layer, turkey, quail, pigeon) operations.
3. Dairy and beef operations.
4. All other animal operations with a wet waste handling system.
5. All other animal operations with a dry waste handling system.
6. Manure broker operations.
7. Innovative and alternative Technologies.
8. Integrator registration.

The amendments of the regulation will address methods of handling, treating, and disposing of residual material from animal production facilities. It will include land application considerations such as agronomic rates for crop utilization. Also, minimum requirements for the location of facilities for production and residual material treatment and handling will be included. The administrative permitting process and technical criteria for permit issuance will be included. The amended Part 100 of these regulations will be the separate and distinct regulations for swine facilities as required by Title 47, Chapter 20, Confined Swine Feeding Operations Act. Legislative review of these proposed amendments will be required.

In addition to the proposed regulations as stated above, the public and regulated community are invited to recommend additional issues for consideration.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: Section 44-71-10 *et seq.*

#### Notice of Drafting:

The Department of Health and Environmental Control proposes to revise Regulation 61-78, Standards For Licensing Hospices. 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., March 26, 2001, the close of the drafting comment period.

#### Synopsis:

Changes were made to the SC Code of Laws (Section 44-71-10, *et seq.*) effective May 1, 2000, to provide for the regulation of hospice facilities. The law will establish requirements for hospice facilities, exclusive of nursing homes and community residential care facilities, through the revision of Regulation 61-78 by the Department of Health and Environmental Control. The regulation is being rewritten in its entirety with the inclusion of hospice facilities and will address, but not be limited to: addition and/or update of definitions; licensing requirements; licensing fee amounts; inspection reporting requirements; reference to Departmental consultations; enforcement action procedures; facility policy/procedures and quality improvement standards; sections related to services and care; sections regarding client record content and maintenance; tuberculin screening requirements; reporting requirements; design and construction requirements; and a severability clause.

Legislative review of this proposal will be required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**MANUFACTURED HOUSING BOARD**  
CHAPTER 19

Statutory Authority: 1976 Code Section 40-1-50, 40-29-50 and 40-29-100

**Notice of Drafting:**

The South Carolina Manufactured Housing Board is drafting a regulation to include provisions concerning the licensure of retail managers. Interested persons should submit their views in writing to Mr. David Bennett, Administrator, Board of Manufactured Housing, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329.

**Synopsis:**

An amendment is being considered to clarify that activities of retail managers require licensure as manufactured home retail salespersons. Persons who hold themselves out to the public as the dealer's representative for the purpose of obtaining financing similarly fall under the definition of retail salesperson and require licensure.

**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 121

Statutory Authority: 1976 Code Section 49-23-10 et seq.

**Notice of Drafting:**

The Department of Natural Resources is considering drafting regulations promulgated under the Drought Response Act. Interested persons should submit comments in writing to Hope Mizzell, Drought Response Coordinator, South Carolina Department of Natural Resources, Land, Water and Conservation Division, 1201 Main Street, Suite 1100, Columbia, South Carolina 29201. To be considered, all comments must be received no later than 5:00 p.m. on March 25, 2001, the close of the drafting period.

**Synopsis:**

The proposed regulations will provide for the implementation of the South Carolina Drought Response Act. One new provision requires that the Department of Natural Resources, through regulation, establish specific numerical values for the indices that define each level of drought in order to provide for upgrading or downgrading drought declaration status. The proposed regulations set out new drought management areas which will allow for more effective drought management. The new drought management areas are divided based on river basin and geopolitical boundaries instead of climate divisions and geopolitical boundaries.

The proposed regulations will require legislative review.



## 18 DRAFTING

### SECRETARY OF STATE CHAPTER 113

Statutory Authority: 1976 Code Section 26-5-50(B), et. seq.

#### **Notice of Drafting:**

The Secretary of State proposes to draft regulations concerning electronic signatures and the licensing of authorities to issue electronic signature certificates. Interested persons may submit comments to Mr. Neil Rashley, Deputy Secretary of State, Secretary of State's Office, P.O. Box 11350, Columbia, S.C. 29211. To be considered, comments must be received no later than 5:00 p.m. on March 28, 2001, the close of the drafting comment period.

#### **Synopsis:**

The General Assembly passed the "South Carolina Electronic Commerce Act" (Section 26-5-10 et. seq.) that provides for the use of electronic records and electronic signatures in South Carolina in order to facilitate and promote electronic commerce and online government. As part of this process, the use of electronic signatures is critical. A certain level of security is also necessary for the effective use of electronic signatures in order to insure that a signature remains unique to the user and that it does not become compromised. Certain authorities in the business of issuing electronic signatures wish to do business in this state and require regulations to properly do so. Section 26-5-50 provides that "[t]he Secretary of State is also authorized to promulgate methods, means, and standards for secure electronic transactions including administration by the Secretary of State and/or licensing of third parties to serve in such capacity."

The proposed regulations will deal with the licensing requirements for businesses that wish to act as these "third parties" and issue electronic signature certificates. Criteria, procedures, and standards will be provided for security of certification procedures, security of issued certificates, financial responsibility, and proper issuance of signatures.

Legislative review of this proposal will be required.

Document No. 2609  
**STATE BUDGET AND CONTROL BOARD**  
 CHAPTER 19

Statutory Authority: 1976 Code Sections 8-11-41, 8-11-230, 8-11-240, 8-11-680

Article 7 – Office of Human Resources, State Human Resources Regulations

**Preamble:**

Based on the Office of Human Resources’ review of the State Human Resources Regulations and input from agency focus groups, several changes are proposed. First, the regulations were reorganized to follow the employment relationship from establishing positions and filling vacancies to separation from employment. Second, the text was simplified to make the regulations easier to read and understand, and changes were made to ensure compliance with recent statutory changes. Third, regulations for unclassified employees were added to reflect current practices. Below is a summary briefly describing the changes to each section.

A notice of drafting was published in Volume 25, Issue No.1 of the *State Register* on January 26, 2001.

**Discussion of Proposed Revisions:** The following describes the substantive changes to the regulations.

**19-701 GENERAL RULES**

The State’s commitment to equal employment opportunity is contained in this section, as is a reference to other applicable State and Federal laws (19-701.01). This section authorizes OHR to audit information pertaining to these regulations and to provide exceptions to the regulations (19-701.04). Other issues such as the Human Resources Information System, Ethics Act, employment outside of State government, solicitation and distribution, and the Pilot Programs provision from the S. C. Code of Laws are also detailed (19-701.05 – 19-701.09).

**19-703 JOB VACANCY ANNOUNCEMENTS**

One addition to this section states that the use of the HRIS vacancy posting system satisfies the vacancy posting requirements of Section 8-11-120 of the S. C. Code of Laws (19-703.02). The second adds information from the Freedom of Information Act concerning the release of materials relating to not fewer than the final three applicants in a search to fill an employment position (19-703.05).

**19-704 MOVEMENT AND STATUS**

This section details how classified and unclassified employees and positions are moved within State government and the status (i.e., probationary, trial, or covered) associated with such movement. The section addresses initial employment, promotions, demotions, reassignments, transfers, reclassifications, and unclassified state title changes for classified and unclassified positions. Also specified is how employees and positions may move between the classified and unclassified services. This section gives the agency the authority to count up to six months of continuous service in any temporary capacity towards the completion of a probationary period.

**19-705 CLASSIFIED EMPLOYEE PAY PLAN**

Additions to this section include the Higher Education exemption from the 95% rule, enacted in 1999 by the South Carolina General Assembly (19-705.01 C.), a section on Legislatively mandated pay increases, and compensation provisions for special assignments and market or geographic reasons (19-705.07 E. and F.). This regulation includes a prohibition on retroactive pay increases, as provided in the South Carolina Constitution (19-705.01 G.), and a regulation which specifies that the pay for unclassified employees moving to the classified service would be controlled by the classified employee pay plan (19-705.01 E.). The reemployment pay provision has been removed from the regulations because all re-employment situations will be treated as initial employment. In addition, the regulation concerning trainee status has been removed because that status is no longer used by agencies. The regulation which provides that an agency may not reduce the salary of an employee for two years upon the involuntary assignment of lower level responsibilities or demotion or downward reclassification for involuntary or non-disciplinary reasons has been modified to provide salary protection for one

## 20 PROPOSED REGULATIONS

year (19-705.05 B.3.b., 19-705.05 C.1.c., and 19-705.05 C.2.). In addition, a retention pay increase was revised so that an agency may exceed the 15% cap for bona fide offers from employers outside of State government upon approval by OHR (19-705.04 C.5.). The definition of shift differential was revised to apply to those employees who are “regularly” assigned to evening, night, weekend, rotating, or split shifts (19-705.07 D.).

### 19-706 ESTABLISHMENT OF UNCLASSIFIED POSITIONS AND THE UNCLASSIFIED EMPLOYEE PAY PLAN

This section covers four categories of unclassified employees, Agency Heads, Academic Personnel, Executive Compensation, and “Unclassified Other.” A new term, “unclassified state title change,” recognizes the movement of unclassified employees among different jobs. The section helps to clarify unclassified increases and decreases for employees in the categories of academic personnel and “unclassified other” to include certified teachers (19-706.04 C.2. and 19-706.04 D.3.b.). The current practice of awarding up to 15% salary increases at the agency level is detailed in this section with additional flexibility provided for academic personnel and other unclassified employees (19-706.04 C.2. and 19-706.04 D.3.b.). The section addressing summer employment has been amended to allow agencies to develop policies and procedures for governing the summer employment of their academic personnel within the 30% limitation (19-706.04 C.5.). This section also contains the statutory prohibition on retroactive pay increases (19-706.02 E.) and a regulation which specifies that the pay for classified employees moving to the unclassified service would be governed by the unclassified employee pay plan (19-706.02 I.). A regulation was added requiring agencies to keep FTEs within the appropriated limits regarding the number of classified and unclassified FTEs (19-706.02 H.).

### 19-707 HOURS OF WORK AND OVERTIME

A regulation was added prohibiting the payment of overtime to an exempt employee, which has been the practice for years (19-707.02 K.1.).

### 19-708 HOLIDAYS

The recent legislative changes recognizing Martin Luther King, Jr. Day and Confederate Memorial Day holidays have been added, as well as removing references to Election Day and an employee’s optional holiday (19-708.02 A.). This section details OHR’s interpretation on the calculation of an employee’s average workday to determine the number of hours of holiday compensatory time an employee may earn and use (19-708.02 D.). A provision was added that states when a holiday falls during a period of time an employee is on leave, the day is counted as a holiday and not as a day of leave (19-708.03 E.). Another provision clarifies that an employee who must work a shift which spans two holidays will be granted holiday compensatory time equal to the actual hours worked (19-708.04 C.). Finally, this section specifies that part-time employees in permanent positions should be treated the same as full-time employees in permanent positions in applying the holiday guidelines (19-708.02 C.).

### 19-709 AND 19-710 ANNUAL LEAVE AND SICK LEAVE

These sections detail OHR’s interpretation on the calculation of an average workday to determine the number of hours of annual and sick leave an employee earns and uses. In the annual leave section, the regulation providing calculation of an employee’s leave accrual date has been revised to reflect periods of leave without pay of more than 30 days, rather than 10 days (19-709.02 A.4.a.). This revision would also apply to calculation of an employee’s state service date and an employee’s review date. Also provided are examples of calculating annual and sick leave earnings for non-standard workweeks (19-709.02 B. 2. and 19-710.02 B.2.) and regulations dealing with an employee’s leave if the employee changes from full-time to part-time or vice versa (19-709.02 C.2. and 19-710.02 C.2.). The annual leave payout requirements were amended to comply with the Supreme Court’s *Littlefield* decision (19-709.05). A revised provision authorizes agencies to advance up to 15 days of sick leave to an employee for extenuating circumstances (19-710.03 A.).

### 19-712 OTHER LEAVE PROGRAMS

This section outlines the other leave types excluding holiday, annual, and sick leave. A provision allowing for 10 days of leave for American Red Cross certified disaster volunteers was added as a result of the recent statutory change (19-712.01 C.). Another addition recognizes the practice of higher education institutions allowing sabbatical leave (19-712.01 M.).

19-715 EMPLOYEE PERFORMANCE EVALUATION SYSTEMS

The provisions clarify the impact of promotions, demotions, reclassification, reassignments, transfers, or unclassified state title changes on an employee's performance review date. A reference to the impact of a universal review date was added (19-715.02 E.5.) and the limit on consecutive workdays of leave without pay before the review date begins to advance was raised from ten to thirty days (19-715.02 E.1.). An additional provision advances an employee's review date six months when the employee transfers to a position in the same class at another agency within six months or less of his review date (19-715.02 E.4.). This section concludes by clarifying the establishment of review dates for Executive Compensation and other unclassified employees including those employees exempt from coverage by the State Employee Grievance Procedure Act (19-715.03).

19-716 STAFF DEVELOPMENT AND TRAINING

This section clarifies that agencies may pay for courses required for an employee to attain or maintain a professional license provided the license relates to the performance of the employee's job (19-716.03).

19-718 STATE EMPLOYEE GRIEVANCES AND APPEALS

A revision was made to this section to allow agencies 15 calendar days instead of 10 calendar days in which to submit records to the State Human Resources Director (19-718.05 D.2.). An amended provision allows the State Human Resources Director to appoint either one or two individuals, instead of just one individual, to serve as the mediator-arbitrator in the mediation-arbitration process (19-718.08 C.3.). A revision to the arbitration phase allows an employee to reserve up to one-half of the total time allotted to reply to the agency's oral contentions (19-718.08 F.2.b.).

19-719 SEPARATION FROM STATE SERVICE

This section specifies how the State government employment relationship may end. Information contained in this section came from several other sections of the regulations with mainly minor wording changes. For consistency of terminology, "termination" describes an action initiated by an agency and "separation" is a broader term to indicate the end of the employment relationship initiated by either the agency or the employee (19-719.03). This section clarifies the definition of break in service to include an exception stating that participation in the TERI program does not constitute a break in service (19-719.01 B.1.b.). This section clarifies that a reinstated employee who was separated by a reduction in force may buy back all, some, or none of his annual leave (19-719.04 B.4.d.)

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

If timely requested by twenty-five or more persons, by a governmental subdivision or agency, or by an association having not fewer than twenty-five members, the State Budget and Control Board, Office of Human Resources will hold a public hearing at the Affinity Building, Room 960, 1201 Main Street, Columbia, SC 29201, on March 28, 2001 at 9:00 a.m.

Written comments or requests for a public hearing must be submitted in writing no later than March 26, 2001, to Ms. Donna G. Traywick, State Budget and Control Board, Office of Human Resources, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201.

**Preliminary Fiscal Impact Statement:**

No additional state funds are required.

**Statement of Need and Reasonableness:**

Purpose: Article 7 is being replaced in its entirety. The Office of Human Resources revised the State Human Resources Regulations to improve the organization of the regulations, to ensure compliance with recent statutory

## 22 PROPOSED REGULATIONS

changes, and to establish regulations for unclassified employees to reflect current practices for these types of positions.

**Legal Authority:** The legal authority for promulgating these regulations is S.C. Code Ann. Sections 8-11-230 and 8-11-240.

**Plans for Implementation:** The proposed regulations will take effect upon approval by the General Assembly and publication in the *State Register*. Copies of the approved regulations will be distributed to all State agencies.

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

These regulations are being amended to comply with recent statutory changes. In addition, the regulations have been reorganized for ease of use based on agency feedback.

### DETERMINATION OF COSTS AND BENEFITS:

No additional state funds are required.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment and public health of this State.

### 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 of this State if these regulations are not implemented.

### **Text:**

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

Document No. 2613  
**BOARD OF EDUCATION**  
CHAPTER 43

Statutory Authority: S. C. Code Ann. Sections 59-5-60 (1990), 59-1-445 (Supp. 1990), 59-18-310 (Supp. 2000), 59-18-320 (Supp. 2000), 59-18-330 (Supp. 2000), 59-20-60 (4) (c) (Supp. 2000), 59-18-340 (Supp. 2000), and 59-30-10 et seq. (Supp. 2000)

43-262. Assessment Program.

### **Preamble:**

The proposed amendments to R 43-262 are intended to update the regulation to make it consistent with the requirements of current legislation. Section A redefines the statewide assessment program to make it consistent with the provisions of the Education Accountability Act of 1998 (EAA) and defines the responsibilities of the

State Department of Education and local school boards in implementing the program. Section B updates the requirements relative to the high school exit examination. Section C addresses first and second grade readiness tests, and ensures that provisions are consistent with the EAA. Section D addresses the norm-referenced test.

The Notice of Drafting was published in the *State Register* on July 28, 2000.

Section-by-Section Discussion

- Section A. Addresses statewide assessment program.
- Section B. Addresses South Carolina high school exit examination.
- Section C. Addresses first-and second-grade readiness assessment.
- Section D. Addresses norm-referenced test.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amended regulation at a public hearing to be conducted by the State Board of Education on April 10, 2001 at 10:00 A.M., in the Basement Conference Room of the Rutledge Building at the State Department of Education, 1429 Senate Street, Columbia, South Carolina. Persons desiring to make oral comments at the hearing may be asked to limit their statements to five minutes or less. If possible, persons are asked to provide written copies of their presentation for the records, depending upon the number of participants.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Dr. Teri Siskind at the South Carolina Department of Education, Office of Assessment, Room 607, Rutledge Building, 1429 Senate Street Columbia, S. C. 29201. Written comments must be received no later than 5:00 P.M. on March 26, 2001.

**Preliminary Fiscal Impact Statement:**

The Department of Education estimates the cost incurred by the State and its political subdivisions in complying with the proposed amended regulation will be approximately \$1,300,000 for FY 2003, \$1,500,000 for FY 2004, \$1,700,000 for FY 2005, \$1,900,000 for FY 2006, \$2,000,000 for FY 2007 and \$2,100,000 plus inflation for FY 2008 and thereafter. This estimated cost is based on projected student enrollments, current contract prices, and adjustments for inflation.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 43-262, Assessment Programs

Purpose: Regulation 43-262 is being amended to make it consistent with the requirements of the EAA.

Legal Authority: The legal authority for Regulation 43-262 is S. C. Code Ann. Sections 59-5-60 (1990), 59-1-445 (1990), 59-18-310 (Supp. 2000), 59-18-320 (Supp. 2000), 59-18-330 (Supp. 2000), 59-20-60 (4) (c) (Supp. 2000), 59-18-340 (Supp. 2000), and 59-30-10, *et seq.* (Supp. 2000).

Plans for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. The proposed amendments will be implemented by providing school district personnel with copies of the regulation.

## 24 PROPOSED REGULATIONS

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

The proposed amendments are needed to make the regulation consistent with current statutes.

### DETERMINATION OF COSTS AND BENEFITS:

The significant costs associated with the regulation are those stipulated in the "Preliminary Fiscal Impact Statement" above. The primary benefit of the proposed changes is to identify all areas included in the assessment program.

### UNCERTAINTIES OF ESTIMATES:

Projected costs were determined by extrapolating from contract costs for the current examination. The estimates can be affected by changes in the numbers of students to be assessed, inflation, and error associated with extrapolating from the current costs. However, the estimates are judged to be reasonable approximations of the additional costs to be incurred from implementation of the proposed amendments.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

N/A

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

There will be no detrimental effects on the environment and public health if these amendments are not implemented.

### Text:

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

Document No. 2566  
**BOARD OF EDUCATION**  
CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1, 3, and 6), 59-30-10(F) (1990), and 59-39-100 (Supp. 2000)

### 43-259. Graduation Requirements

#### Preamble:

Regulation 43-259 specifies graduation requirements. This regulation sets out units required for a state high school diploma, provisions for granting course credit, exit examination requirements, General Educational Development (GED) equivalency diploma requirements, GED testing, and adult education diploma requirements. This regulation incorporates amendments reflecting the General Assembly's repeal of the STAR diploma, additional provisions for granting high school and adult education program course credit, and editing to provide

additional clarity. In addition, specific exit examination requirements were deleted from Regulation 43-259, Graduation Requirements, and will be included in Regulation 43-262, Assessment Programs.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on April 10, 2001, at 10:30 A.M. at the Rutledge Building, State Department of Education, 1429 Senate Street, Columbia, South Carolina. The notice for public hearings will be noted in the Board’s agenda to be published by the Department two days in advance of the meeting. 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 amendments by writing to Dr. Nancy Sargent, Director, Office of School Quality, 1429 Senate Street, Room 702, Columbia, South Carolina 29201 or e-mail <[nsargent@sde.state.sc.us](mailto:nsargent@sde.state.sc.us)>. Comments must be received no later than 4:00 P.M. on March 26, 2001. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on April 10, 2001, as noticed above. Comments received by the deadline shall be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:**

FY 2000-01 began the final year of phasing in the twenty-four unit diploma requirement. There will be no increased costs to the State or its political subdivisions.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 43-259. Graduation Requirements

Purpose: Regulation 43-259, Graduation Requirements, is being amended and replaced in its entirety to incorporate the General Assembly’s repeal of the STAR diploma. New provisions for granting high school and adult education program course credit have been added. Editing to provide more clarity is interspersed throughout the amended regulation.

Legal Authority: The legal authority for Regulation 43-259, Graduation Requirements, is S.C. Code Ann. Sections 59-5-60(1,3, and 6), 59-30-10(F)(1990), and 59-39-100 (Supp. 2000).

Plans for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*. Copies of the amended regulation will be mailed to all school districts, schools, and educational organizations.

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

The proposed amendments to Regulation 43-259, Graduation Requirements, address the General Assembly’s repeal of Section 59-39-105, “Superior Technology or Academic Requirements (STAR) Diploma,” relating to STAR Diploma requirements and Section 59-39-190, “Regulations,” relating to the State Board of Education’s authority to promulgate regulations for STAR Diploma implementation. New provisions for granting high school and adult education program course credit provide additional direction concerning the issuance of credits. Editing changes to provide more clarity are interspersed throughout the regulation. Public high schools and adult education programs will benefit from the additional specificity concerning state high school diploma requirements.



## 26 PROPOSED REGULATIONS

### DETERMINATION OF COSTS AND BENEFITS:

The proposed amendments to Regulation 43-259, Graduation Requirements, address the General Assembly's repeal of Section 59-39-105, "Superior Technology or Academic Requirements (STAR) Diploma," relating to STAR Diploma requirements and Section 59-39-190, "Regulations," relating to the State Board of Education's authority to promulgate regulations for STAR Diploma implementation. New provisions for granting high school and adult education program course credit provide additional direction concerning the issuance of credits. Editing changes to provide more clarity are interspersed throughout the regulation. Public high schools and adult education programs will benefit from the additional specificity concerning state high school diploma requirements.

### UNCERTAINTIES OF ESTIMATES:

None

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

None

### Text:

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

Document No. 2607  
**BOARD OF EDUCATION**  
CHAPTER 43

Statutory Authority: S.C. Code Ann. Section 59-5-60 (1990), S.C. Code Ann. Section 59-21-510 (1990 & Supp. 2000), S.C. Code Ann. Section 59-21-560 (1990), S.C. Code Ann. Section 59-21-580 (1990), S.C. Code Ann. Section 59-21-720 (1990), S.C. Code Ann. Section 59-33-20 (1990), S.C. Code Ann. Section 59-33-30 (1990), S.C. Code Ann. Section 59-36-10 (Supp. 2000), S.C. Code Ann. Section 59-36-40 (Supp. 2000), S.C. Code Ann. Section 59-36-50 (Supp. 2000), 20 U.S.C. Section 1400 *et seq.* (1997)

43-243.1 Special Education, Education of Students with Disabilities (new title: Criteria for Entry into Programs of Special Education for Students with Disabilities).

### Preamble:

The State Board of Education proposes to amend and replace in its entirety Regulation 43-243.1 Special Education, Education of Students with Disabilities (new title: Criteria for Entry into Programs of Special Education for Students with Disabilities).

On April 13, 1999, the State Board of Education promulgated the Criteria for Program Entry into Programs of Special Education for Students with Disabilities. Since this time the regulations have been reviewed by a group of nationally recognized experts in the field of special education and school psychology. The original editing team along with several leaders in the field of school psychology met and discussed the recommendations of the experts as well as their observations after utilizing the new criteria for one year. Based upon their input, several amendments are recommended along with editorial changes.

The Notice of Drafting was published in the *State Register* on July 28, 2000.

Section by Section Discussion

- 43-243.1A Addresses general provisions for evaluation.
- 43-243.1B Addresses the eligibility criteria for a Preschool Child with a Disability.
- 43-243.1C Addresses the eligibility criteria for Mental Disability.
- 43-243.1D Addresses the eligibility criteria for Specific Learning Disability.
- 43-243.1E Addresses the eligibility criteria for Emotional Disability.
- 43-243.1F Addresses the eligibility criteria for Speech or Language Impairment.
- 43-243.1G Addresses the eligibility criteria for Deafness and Hearing Impairment.
- 43-243.1H Addresses the eligibility criteria for Visual Impairment.
- 43-243.1I Addresses the eligibility criteria for Deaf-Blindness.
- 43-243.1J Addresses the eligibility criteria for Orthopedic Impairment.
- 43-243.1K Addresses the eligibility criteria for Other Health Impairment.
- 43-243.1L Addresses the eligibility criteria for Traumatic Brain Injury.
- 43-243.1M Addresses the eligibility criteria for Autism.
- 43-243.1N Addresses the eligibility criteria for Multiple Disabilities.
- 43-243.1O Addresses the requirements for reevaluation in all categories of disability.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education on April 10, 2001 at 10:30 A.M. to be held in Room 806 of the Rutledge Building at the State Department of Education, 1429 Senate Street, Columbia, South Carolina. 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 amendments by writing to Susan D. DuRant at the State Department of Education, Office of Exceptional Children, 808 Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201, or by calling (803) 734-8806. Comments must be received no later than 4:00 P.M. on March 26, 2001. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on April 10, 2001, as noticed above. Comments received by the deadline shall be submitted to the Board in a summary of public comments and Department responses for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:**

It is estimated there will be no increased costs to the State or its political subdivisions.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 43-243.1 Criteria for Entry into Programs of Special Education for Students with Disabilities

Purpose: This regulation proposes to amend State Board of Education Regulation 43.243.1, Special Education, Education of Students with Disabilities, which governs the criteria for entry into programs of special education.

Legal Authority: The legal authorities for Regulation 43-243.1 are S.C. Code Ann. Section 59-5-60 (1990), S.C. Code Ann. Section 59-21-510 (1990 & Supp. 2000), S.C. Code Ann. Section 59-21-560 (1990), S.C. Code Ann. Section 59-21-580 (1990), S.C. Code Ann. Section 59-21-720 (1990), S.C. Code Ann. Section

## 28 PROPOSED REGULATIONS

59-33-20 (1990), S.C. Code Ann. Section 59-33-30 (1990), S.C. Code Ann. Section 59-36-10 (Supp. 2000), S.C. Code Ann. Section 59-36-40 (Supp. 2000), S.C. Code Ann. Section 59-36-50 (Supp. 2000), 20 U.S.C. Section 1400 *et seq.* (1997)

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

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

This regulation is being amended based upon input from national experts and field use.

### DETERMINATION OF COSTS AND BENEFITS:

It is estimated there will be no increased costs to the State or its political subdivisions.

### UNCERTAINTIES OF ESTIMATES:

None

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

None

### Text:

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

Document No. 2614

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### CHAPTER 30

Statutory Authority: S.C. Code Section 48-39-50

### Preamble:

The Department's Office of Ocean and Coastal Resource Management (OCRM) is proposing to amend R.30-1, *Definitions*, R.30-2, *Applying for a Permit*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*. A new definition is added and permit application requirements are addressed. Specific project standards for docks and island access are also proposed. See Discussion below and Statement of Need and Reasonableness herein.

This current Notice of Proposed Regulation cancels and supersedes Document No. 2594, that was published in the *State Register* on December 22, 2000

A Notice of Drafting for these proposed revisions was published in the *State Register* on July 28, 2000.

Discussion of Proposed Revisions:

<u>SECTION</u>	<u>CHANGE</u>
30-1.D(7)	New definition is added to define the term “boat” as it relates to specific uses in the critical areas.
30-2.B(8)	Additional language incorporates the requirements of stormwater plans, dock master plans, and other pertinent information in order to provide for a comprehensive review of project proposals. This section is also amended to clarify profession requirements for submitting plats reflecting locations of the SCOCRM Baseline and setback lines.
30-12.A(1)	Language is deleted to clarify existing wording.
30-12.A(2)(f)	Language is added to recognize the Americans with Disabilities Act recommendations for walkways and other structural configurations.
R30-12.A(2)(h)	Language is modified to address the permitting process required in order to review projects comprehensively and not on a piece meal basis.
R30-12.A(2)(l)	Language is modified to limit dock lengths to 500 feet.
R30-12.A(2)(n)	Language is added to clarify corridor and navigational issues.
R30-12.A(2)(q)(i)	Language is modified to eliminate dock on creeks less that 20 feet wide.
R30-12.A(2)(q)(iv)	Language is modified to restrict docks to 600 square feet on creeks larger than 150 feet wide.
R30-12.A(2)(q)(viii)	Subitem is added to clarify boat storage associated with docks in the critical areas.
R30-12.A(2)(r)	The introductory paragraph is amended to reflect requirements in the Dock Master Planning process.
R30-12.A(2)(r)(ii)	This subitem is amended to specify roof height.
R30-12.A(2)(s)(iv)	Unnecessary language is deleted.
R30-12.A(2)(t)	Addition which states docks destroyed beyond repair must conform to existing regulations.
R30-12.N	Section 30-12.N introductory paragraph is being amended to clarify language, improve OCRM’s ability to review bridge permits and address all coastal islands.
R30-12.N(1)	Unnecessary language is deleted.
R30-12.N(2)	Language is modified to clarify meaning and subsection is renumbered.
R30-12.N(3)	Language is deleted for clarification and deemed unnecessary.
R30-12.N(4)	Subsection item is renumbered stylistically.

### **30 PROPOSED REGULATIONS**

- R30-12.N(5) Subsection changed to define alternative access. And subsection item is renumbered stylistically.
- R30-12.N(6) Subsection item is renumbered stylistically.
- R30-12.N(7) Subsection item is renumbered stylistically and language is added to expand on existing language.
- R30-12.N(8) Subsection item is renumbered stylistically.
- R30-12.N(9) Subsection item is renumbered stylistically.
- R30-12.N(10) Language is deleted and incorporated in the proposed change to R30-12N.(5).
- R30-12.N(11) Language is added to clarify the Dock Master Planning process.

#### **Notice of Staff Informational Forum:**

Staff of the Department of Health and Environmental Control invites the public and regulated community to attend a staff-conducted informational forum to be held on March 14, 2001, 6:00 p.m. in the 3<sup>rd</sup> floor conference room at the DHEC office at 1362 McMillan Avenue, Charleston, South Carolina. The purpose of the forum is to answer questions, clarify issues, and receive comments, orally or in writing, from interested persons on the proposed amendment of R.30-1, R.30-2, and R.30-12. Comments received at the forum 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 for April 12, 2001, as noticed below.

Copies of the text of the proposed amendment for public notice and comment may be obtained by contacting Barbara Neale at OCRM, S.C. Department of Health and Environmental Control, 1362 McMillan Ave., Suite 400, Charleston, South Carolina 29405: Telephone number (843) 744-5838; Fax (843) 744-5847.

#### **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 regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on April 12, 2001. The public hearing will be held in the Auditorium in the DHEC Health Department's office at 145 E. Cheves Street, Florence, SC. The Board meeting will commence at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. 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 regulation by writing to Ms. Barbara Neale at SCDHEC OCRM at 1362 McMillan Avenue, Suite 400, Charleston, South Carolina 29405. Written comments must be received no later than 4:00 p.m. on March 26, 2001. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on April 12, 2001, as noticed above. Comments received by the deadline date shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing.

Copies of the final proposed regulation for public hearing before the DHEC Board may be obtained by contacting Barbara Neale at 843-747-4323 extension 126.

**Preliminary Fiscal Impact Statement:**

SCDHEC/OCRM estimates there will be no significant economic impacts upon or incurred by the state or its political entities as a result of the promulgation, approval, and administration of the proposed Regulations. Existing staff and resources have been utilized in preparation and will further be utilized in additional regulatory administration resulting from the amendments.

**Statement of Need and Reasonableness:**

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-1115(C)(1)-(3) and (9)-(11)

DESCRIPTION OF REGULATION: R.30-1, *Definitions*, R.30-2, *Applying for a Permit*, and R.30-12, *Specific Project Standards for Tidelands and Coastal Waters*

Purpose: To amend R.30-1, R.30-2, and R.30-12 to add a new definition and permit application requirements and standards for docks and access to islands.

Legal Authority: Authorized by 48-39-50(A-V), Coastal Tidelands and Wetlands Act, 1976.

Plan for Implementation: Upon approval by the Department's Board, the General Assembly, and publication in the State Register, these regulations will be implemented, administered, and enforced by existing staff and resources.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AMENDMENT BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The amendment is necessary to enable Department staff to manage increasing development pressures to islands within the Critical Areas of the Coastal Zone and to address issues concerning the proliferation of docks.

DETERMINATION OF COSTS AND BENEFITS: Promulgation and administration of this amendment is estimated to have no significant economic impacts to entities regulated or cost increases to the general public. Public benefits, however, may be evident in improved management of coastal resources and to encourage wise use and development of sensitive areas. See Preliminary Fiscal Impact Statement.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: Approval of the amended regulations will refine SCDHEC/OCRM's ability to manage increasing public usage of coastal resources. The amendments will also enable SCDHEC/OCRM to more efficiently address public trust issues.

DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: Non-implementation of the regulations as proposed will hinder SCDHEC/OCRM's statutory directives to manage the state's coastal environment for its citizens. Sensitive and fragile areas will be susceptible to inappropriate development, as environmental safeguards will lag behind increased demands for access to these areas.

**Text:**

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

## 32 PROPOSED REGULATIONS

Document No. 2615  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61  
Statutory Authority: 1976 Code Section 48-1-10 et seq.

### R61-9, Water Pollution Control Permits

#### Preamble:

The Department proposes to amend R.61-9 to comply with revisions to U.S. Environmental Protection Agency (Federal) regulations which have been made since the most-recent (1996) revisions to the South Carolina regulation. Federal regulation revisions were promulgated in the Federal Register at

62 Federal Register (FR) 38406, July 17, 1997: Administrative changes to regulations related to pretreatment (industrial discharges to Publicly Owned Treatment Works [POTW]);

64 FR 42434 and 42552, August 4, 1999: Changing storm water requirements to include Federal Phase II National Pollutant Discharge Elimination System (NPDES) regulations;

64 FR 68722, December 8, 1999: Providing new application forms and application requirements for POTW (Form 2A) and POTW and Treatment Works Treating Domestic Sewage (TWTDS) disposal of sewage sludge (Form 2S); and

65 FR 30886, May 15, 2000: Miscellaneous administrative changes.

Many sections of the Federal regulations state specifically that equivalent state regulations are required in order for the state wastewater discharge and domestic wastewater sludge disposal permits under the National Pollutant Discharge Elimination System (NPDES) to be accepted in lieu of Federal permitting. Elsewhere, parts of the Federal regulations provide information, such as definitions, and are included in the State regulation.

As these amendments are required for compliance with Federal regulation, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

The Notice of Drafting for these proposed amendments was published in the State Register on July 28, 2000.

#### Discussion of Revisions:

#### R61-9.122 The National Pollutant Discharge Elimination System.

Authority	State the authority in Federal and State law for the regulation.
122.1(a)(1)	Revise the language to be more specific.
122.1(a)(2)	Eliminate the reservation of the item and add an item stating the purpose of the Part (122).
122.1(a)(3)	Add a new item further defining the purpose of the Part.
122.1(a)(4)	Add a new item mentioning other Parts of regulation which are pertinent to the program.
122.1(b)(2)	Delete the existing sub-section, and renumber existing sub-sections (3) and (4) to (2) and (3), respectively.

122.2(b)	Sequential numbering is removed from all definitions, (1) through (96), which are alphabetical. Notes are added to the item stating in which other sections of the regulation each of several additional terms are defined. Any sub-items under definitions are renumbered based on deleting definition numbers.
122.2(b)	Add a definition of “Indian country.”
122.2(b)	The definition of “Publicly owned treatment works” is revised.
122.2(b)	The definition of “sludge-only facility is revised.
122.2(b)	The definition of “Treatment works treating domestic sewage” is revised.
122.2(b)	Add a definition of “TWTDS.”
122.4(i)(2)	The item is revised to allow waiving of submittal by permittees of data in the Department’s hands.
122.21(a)(1)	Revise the language to require an application for unpermitted facilities covered by R.61-9.503 and to eliminate the requirement for a BMP submittal, as BMP requirements are being eliminated from the regulation as storm water pollution prevention plans substitute for BMP.
122.21(a)(2)	Renumber the existing item as (a)(3) and insert a new Federal item related to application forms. Delete existing items (3), reserved, and (4), related to obsolete applications.
R.61-9.122.21(c)(1)	The requirement for applications for proposed storm water discharges is revised to include construction activities smaller than 5 acres and to correct a reference.
R.61-9.122.21(c)(2)	The introductory language to this item is supplemented to require submittal of sludge-disposal-permit applications by TWTDS per schedules stated in succeeding revisions to the item.
R.61-9.122.21(c)(2)(i)	The existing language is deleted and a Federal requirement is added for facilities with NPDES permits.
R.61-9.122.21(c)(2)(ii)	The existing language is deleted from this existing item and the introductory language is deleted from existing item (iii). A new Federal item (ii) is added related to facilities without NPDES.
R.61-9.122.21(c)(2)(ii)(A)	The existing item is moved from existing item (iii)(A), the existing language is deleted, and a new Federal item is added relating to identifying the facility.



### 34 PROPOSED REGULATIONS

R.61-9.122.21(c)(2)(ii)(B)	The item is moved from existing item (iii)(B), the existing language is deleted, and a new Federal item is added relating to identifying the permit applicant.
R.61-9.122.21(c)(2)(ii)(C)	The item is moved from existing item (iii)(C), the existing language is deleted, and a new Federal item is added relating to describing the disposal practices.
R.61-9.122.21(c)(2)(ii)(D)	The item is moved from existing item (iii)(D).
R.61-9.122.21(c)(2)(ii)(E)	The item is moved from existing item (iii)(E) and language is revised by using the abbreviation TWTDS.
R.61-9.122.21(c)(2)(iii)	The item is moved from existing item (iv) and language is revised by using the abbreviation TWTDS.
R.61-9.122.21(c)(2)(iv)	The item is moved from existing item (v) and language is revised by using the abbreviation TWTDS.
R.61-9.122.21(d)(3)	The existing language is removed and the item is reserved, as the forms required in the existing language are being replaced by Form 2S.
R.61-9.122.21(e)(2) - (4)	A new Federal item is added concerning completeness of applications. Renumber existing items (2) and (3) to (3) and (4), respectively.
R.61-9.122.21(f)	The item is renumbered and language is revised to eliminate application to POTW and TWTDS as separate applications for those discharges are being required elsewhere.
R.61-9.122.21(f)(1) - (8) and R.61-9.122.21(f)(6)(i) - (viii)	The items are renumbered based on the above-mentioned renumbering.
R.61-9.122.21(g)(7)(i)	The new sub-item is divided from existing item (7) for clarity and references are revised.
R.61-9.122.21(g)(7)(ii)	The new sub-item is the remaining language divided from existing item (7) for clarity.
R.61-9.122.21(g)(7)(iii)	The item is renumbered from existing (i)(A).
R.61-9.122.21(g)(7)(iii)(A)-(G)	These items are renumbered from the existing items R.61-9.122.21(g)(7)(1)(A)(1) - (7).
R.61-9.122.21(g)(7)(iii)(G)	Spelling is corrected.
R.61-9.122.21(g)(7)(iv)	The item is renumbered from existing (i)(B).
R.61-9.122.21(g)(7)( v)	The item is renumbered from existing (ii).
R.61-9.122.21(g)(7)( v)(A)	Existing references are revised.

R.61-9.122.21(g)(7)( vi) - (viii)	The items are renumbered respectively from existing (iii) - (v).
R.61-9.122.21(g)(8)	Revise references based on above-mentioned renumbering.
R.61-9.122.21(j)	Federal additions to the introductory language are made. This refers to use by all POTW of the new Form 2A application and allows submittal of data by reference and waiver of data submittal with approval by the U.S. EPA Regional Administrator.
R.61-9.122.21(j)(1)	Existing items (1) - (4) are deleted. The item requires submittal of general information by all POTW and other applicants using Form 2A: (i) Facility identification; (ii) applicant identification; (iii) existing environmental permits; (iv) population; (v) Indian country; (vi) flow rates; (vii) description of disposal methods (outfalls, etc.).
R.61-9.122.21(j)(2)	The item requires additional information of dischargers of 0.1 million gallons per day (MGD) or greater: (i) Inflow and infiltration; (ii) a topographic amp with significant facilities; (iii) a process flow diagram or description; (iv) a schedule for intended improvements.
R.61-9.122.21(j)(3)	The item requires additional information on discharges: (i) Outfall descriptions; (ii) description of receiving waters; (iii) description of treatment.
R.61-9.122.21(j)(4)	The item requires data from monitoring effluent for specific parameters.
R.61-9.122.21(j)(5)	The item requires data from monitoring of whole effluent toxicity for defined discharges.
R.61-9.122.21(j)(6)	The item requires data concerning industrial discharges (pretreaters) to the POTW.
R.61-9.122.21(j)(7)	The item requires data concerning discharges from hazardous waste generators and from waste cleanup or remediation sites.
R.61-9.122.21(j)(8)	The item requires data on combined sewer overflows (CSO).
R.61-9.122.21(j)(9)	The item requires data on facility operational or maintenance contractors.
R.61-9.122.21(j)(10)	The item states signature requirements for applications.
R.61-9.122.21(q)	Add a new Federal sub-section describing application requirements for TWTDS. Introductory language designates who must apply. It also allows waiver of submittal of available data and, with approval of the Regional Administrator, of data which is not relevant.
R.61-9.122.21(q)(1)	This new Federal item requires submittal of a description of the facility.
R.61-9.122.21(q)(2)	This new Federal item requires submittal of a description of the

### 36 PROPOSED REGULATIONS

	applicant.
R.61-9.122.21(q)(3)	This new Federal item requires submittal of a list of environmental permits.
R.61-9.122.21(q)(4)	This new Federal item requires submittal of any information about Indian country.
R.61-9.122.21(q)(5)	This new Federal item requires submittal of a topographic map showing disposal areas.
R.61-9.122.21(q)(6)	This new Federal item requires submittal of information on sewage sludge handling.
R.61-9.122.21(q)(7)	This new Federal item requires submittal of information on sewage sludge quality.
R.61-9.122.21(q)(8)	This new Federal item requires submittal of information on preparation of sewage sludge.
R.61-9.122.21(q)(9)	This new Federal item requires submittal of information on land application of bulk sewage sludge.
R.61-9.122.21(q)(10)	This new Federal item requires submittal of information on surface disposal of sewage sludge.
R.61-9.122.21(q)(11)	This new Federal item requires submittal of information on incineration of sewage sludge.
R.61-9.122.21(q)(12)	This new Federal item requires submittal of information on disposal of sewage sludge in a municipal solid waste landfill.
R.61-9.122.21(q)(13)	This new Federal item requires submittal of information on operational or maintenance contractors for sewage sludge facilities.
R.61-9.122.21(q)(14)	This new Federal item requires submittal of additional information which the Department concludes is necessary for permitting.
R.61-9.122.21(q)(15)	This new Federal item requires appropriate certifications and signatures on applications.
R.61-9.122.22(a)(1)(ii)	The item is revised to allow more flexibility in determining which facility managers may sign an application.
R.61-9.122.26(a)(9)	Add a new Federal item requiring that dischargers of storm water from small MS4 and construction activities smaller than 5 acres obtain NPDES permits and stating a schedule to submit an application.
R.61-9.122.26(b)(2) - (4)	Move the existing definition of "General Permit application" to the section on General Permits, add a note to that effect, and renumber items (2) - (4) respectively from existing items (3) - (5).

R.61-9.122.26(b)(4)(i)	Revise the existing item to state that the 1990 census is to be used in determining which municipalities fall into categories of large MS4.
R.61-9.122.26(b)(4)(iii)	Revise references based on renumbering.
R.61-9.122.26(b)(4)(iii)(B)	Revise reference based on renumbering.
R.61-9.122.26(b)(4)(iv)	Revise reference based on renumbering.
R.61-9.122.26(b)(5) - (7)	Renumber items (5) - (7) respectively from existing items (6) - (8).
R.61-9.122.26(b)(7)(i)	Revise the existing item to state that the 1990 census is to be used in determining which municipalities fall into categories of medium MS4.
R.61-9.122.26(b)(7)(iii)	Revise references based on renumbering.
R.61-9.122.26(b)(7)(iii)(B)	Revise references based on renumbering.
R.61-9.122.26(b)(7)(iv)	Revise references based on renumbering.
R.61-9.122.26(b)(8)	Renumber item (8) from existing item (9).
R.61-9.122.26(b)(9) - (11)	Move the existing definition of "Notice of Intent" to the section on General Permits, add a note to that effect, and renumber items (9) - (11) respectively from existing items (11) - (13).
R.61-9.122.26(b)(12)	Renumber item (12) from existing item (17).
R.61-9.122.26(b)(13)	Renumber item (13) from existing item (15).
R.61-9.122.26(b)(14)	Revise the introductory language to change a reference, thereby revising areas of coverage, and to delete the exemption of subcategory (14)(xi) from permitting with "no exposure". This exemption is restated in a new sub-section, R.122.26(g), and includes all subcategories.
R.61-9.122.26(b)(14)(x)	The item is revised to include certain construction activities disturbing areas less than 5 acres.
R.61-9.122.26(b)(14)(xi)	The item is revised to be consistent with new "no-exposure" requirements.
R.61-9.122.26(b)(15)	Add a new Federal item defining "storm water discharge associated with small construction activity".
R.61-9.122.26(b)(16)	Add a new Federal item defining "small municipal separate storm sewer system".
R.61-9.122.26(b)(17)	Add a new Federal item defining "small MS4".
R.61-9.122.26(b)(18)	Add a new Federal item defining "Municipal separate storm sewer system".

### 38 PROPOSED REGULATIONS

R.61-9.122.26(b)(19)	Add a new Federal item defining “MS4”.
R.61-9.122.26(b)(20)	Renumber the existing definition to (20) from (18).
R.61-9.122.26(b)(21)	Renumber the existing definition to (21) from (16).
R.61-9.122.26(c)	Revise the introductory language to include “storm water discharges associated with small construction activity”.
R.61-9.122.26(c)(1)	Revise the language to add small construction activity and to delete the authorization for group applications.
R.61-9.122.26(c)(1)(i)(E)(4)	Revise references based on renumbering.
R.61-9.122.26(c)(1)(i)(F)	Revise references based on renumbering.
R.61-9.122.26(c)(1)(ii)	Revise the item to include small construction activity in the exemption from certain application requirements.
R.61-9.122.26(c)(2)	Remove all language from the subsection related to group applications and reserve the subsection.
R61-9.122.26(d)(2)(iv)(C)(2)	Revise references based on renumbering.
R61-9.122.26(d)(2)(viii)	Revise a reference based on renumbering.
R.61-9.122.26(e)(1)	Rename the item to refer to storm water discharges associated with industrial activity.
R.61-9.122.26(e)(1)(ii)	Revise the item to set a specific date for submittal of a storm water permit application from certain municipally owned facilities.
R.61-9.122.26(e)(5)	Revise the item to extend the period for submittal of an application.
R.61-9.122.26(e)(5)(i)	Revise the item to include a reference to small construction activities.
R.61-9.122.26(e)(8)	Add a new Federal item stating a schedule for submitting applications for small construction activity.
R.61-9.122.26(e)(9)	Add a new Federal item stating a schedule for submitting applications for small MS4.
R.61-9.122.26(f)(4)	Revise the item to include small MS4 and to revise references based on renumbering.
R.61-9.122.26(f)(5)	Revise the item to include a different time for response by the Department related to small MS4.
R.61-9.122.26(g)	Add a new Federal item expanding an exemption of industrial activities for “no exposure”.

R.61-9.122.27(a)	Make a clerical correction to the existing item.
R.61-9.122.28(a)(1)	Revise the item to allow more than one category or subcategory to be covered in a permit and to clarify that the area covered by a permit must correspond to particular boundaries.
R.61-9.122.28(a)(2)	Revise the item to allow more than one category or subcategory to be covered in a permit and to include sludge handling.
R.61-9.122.28(a)(2)(ii)	Revise the item to allow more than one category or subcategory of TWTDS to be covered in a permit.
R.61-9.122.28(a)(3)	Add a new Federal item related to water-quality-based general permits.
R.61-9.122.28(a)(4)	Add a new Federal item requiring controls for separately covered categories and allowing exclusion of certain potential permittees from coverage.
R.61-9.122.28(b)(1)	Add a reference to Federal procedures for issuance of general permits.
R.61-9.122.28(b)(2)(v)	Revise the existing language to refer to MS4.
R.61-9.122.28(b)(4)	Add a new item including only two definitions moved from the section on storm water, R.122.26(b).
R.61-9.122.30	Add a new Federal section describing, in general, the new program for storm water permits for small MS4.
R.61-9.122.31	Add a new Federal section controlling storm water for Indian country.
R.61-9.122.32	Add a new Federal section describing the small municipalities which must be covered by storm water NPDES permits.
R.61-9.122.33	Add a new Federal section describing the application process for storm water permits for small MS4.
R.61-9.122.34	Add a new Federal section describing the types of requirements to be included in an NPDES permit for small MS4.
R.61-9.122.35	Add a new Federal section discussing sharing of responsibility for implementing control measures stated in NPDES permits for small MS4.
R.61-9.122.36	Add a new Federal section discussing enforcement possibilities for non-compliance with NPDES permits for small MS4.
R.61-9.122.44(a)(1)	Re-number to the new item number, (a)(1) from the existing subsection number (a).
R.61-9.122.44(a)(2)	Add a new Federal item providing “monitoring waivers for certain guideline-listed pollutants”.

## 40 PROPOSED REGULATIONS

R.61-9.122.44(c)	Revise the existing item relating to reopener clauses, deleting the introductory language, items (1) through (3), and the number only for item (4).
R.61-9.122.44(j)(2)(i)	Re-number to the new item number, (2)(i) from the existing subsection number (2).
R.61-9.122.44(j)(2)(ii)	Add a new Federal item requiring a written submittal for a POTW with a pretreatment program to revise local limits.
R.61-9.122.44(k)	Revise the introductory language.
R.61-9.122.44(k)(2)	Add a new Federal item requiring best management practices plan (BMP) submittal for storm water discharges.
R.61-9.122.44(k)(3) and (4)	Re-number the existing items based on the above-mentioned addition.
R.61-9.122.44(q)	Revise the item so that application of the requirement is not restricted to U.S waters.
R.61-9.122.44(r)	Reserve a new subsection number.
R.61-9.122.44(s)	Add a new federal item related to storm water permits.
R.61-9.122.45(h)(1)	Revise a reference.
R.61-9.122.62(a)(8)(ii)	Revise a reference to make it more specific.
R.61-9.122.62(a)(14)	Insert a new Federal item related to small MS4 for the existing reserved item.
R.61-9.122.64(b)	Add Federal language to the existing item allowing expedited termination of permits.
R61-9.122 Appendices F, G, H, and I	Revise the wording of the Title of each appendix. Also, revise the reference for each appendix to include 12/8/99 FR revisions to those referenced Federal appendices.
R61-9.122, Appendix J	Add the new Federal appendix tabulating NPDES application requirements for POTW, based on requirements in R.61-9.122.21(j).
<b>R61-9.124, Procedures for Decision Making</b>	
R.61-9.124 Table of Contents	Remove Part E, Part F, and Appendix A from the Table of Contents.
R.61-9.124.1	Change a reference in the introductory language based on renumbering mentioned above.
R.61-9.124.2(b)	Reserve the item, removing the existing definition.

R.61-9.124.5(d)(1) and (2)	Delete the first sentence of existing subsection (d) and add new Federal items relating to notice of termination of a permit. This item is inserted prior to the existing introductory language of the item.
R.61-9.124.5(d)(3)	Reorder the second sentence of the existing introductory language of the item to (d)(3) from (d).
R.61-9.124.8(b)(9)	Add a new Federal item requiring that information on waivers of application requirements be included in fact sheets.
R.61-9.124.52(c)	Revise the introductory language to the existing section to include a reference to scheduling requirements of R.61-9.122.26(a)(9), delete a reference, and extend the period allowed for submitting an application.
124.56(b)(1)(ii)	NF. Change the wording.
124.56(b)(1)(iii) and (iv)	NF. For each item, delete the ending punctuation (period) and replace with a semicolon.
R.61-9.124.56(b)(1)(v)	Add a new Federal item requiring that a fact sheet explain the basis for meeting criteria for new sources.
R.61-9.124.56(b)(1)(vi)	Add a new Federal item requiring that a fact sheet explain the basis for waivers from monitoring requirements.
R.61-9.124 (end)	Delete reserved existing Parts E and F and Appendix A.
<b>R.61-9.125, Criteria and Standards for the National Pollutant Discharge Elimination System</b>	
R.61-9.125.32(a)	Revise references to be more specific, specifically referring to application requirements.
R.61-9.125, Subpart K	Remove all language, consisting of sections existing 125.100 - 104, and reserve the Subpart related to BMP.
<b>R61-9.403, General Pretreatment Regulations for Existing and New Sources of Pollution</b>	
R.61-9.403.8	Revise the title of the section.
R.61-9.403.8(c)	Make a clerical correction to the subsection.
R.61-9.403.8(f)(6)	Revise the item to require that POTW with pretreatment programs maintain a list of industrial users, to eliminate the automatic approval of submittals if no reply is prepared by the Department, and to make additional clerical revisions.
R.61-9.403.11(b)(1)(i)(A)	Revise the item to make sending notices to certain government agencies unnecessary if they request that notices not be sent.
R.61-9.403.11(b)(1)(i)(B)	Revise the item to allow more flexibility in choosing the newspaper



## 42 PROPOSED REGULATIONS

	for public notice relating to pretreatment permits.
R.61-9.403.12(i)(4)	Add a new Federal item to require that the POTW include a general description of previously unreported changes in their annual report of pretreatment.
R.61-9.403.12(i)(5)	Re-number the existing item to (5) from (4) based on the above-mentioned addition.
R.61-9.403.18(b), (c), (d), and (e).	Remove existing subsections (b) and (c) and replace with the new Federal items, revising procedures for modification of pretreatment programs.
R.61-9.403 Just prior to Appendices.	Add recent FR citations to the statement of authority.
R.61-9.403, Appendix G, Table II, Chromium	Revise the chromium limit to clarify that it applies to total chromium, and add a new Federal limit related to land application.
R.61-9.403, Appendix G, Table II, Copper	Revise the copper limit.
R.61-9.403, Appendix G, Table II, Key	Remove the definition of "SD", as it is no longer used.
R.61-9.403, Appendix G, Table II, (Note) 1	Revise the description of the regulated unit.
R.61-9.403, Appendix G, Table II, (Note) 2	Revise the description of the regulated unit.
<b>R.61-9.503, Standards for the Use or Disposal of Sewage Sludge</b>	
R.61-9.503.2(d)	Eliminate reservation of the subsection, adding a new Federal subsection, stating specific compliance deadlines for Federal regulations which were effective September 3, 1999.
R.61-9.503.9(e), (o), (q), and (bb)	Revise these definitions, which refer to renumbered definitions in R.61-9.122.2(b), for clarity.
R.61-9.503.10(d)	Revise the language of the item concerning application of the regulation to bulk material derived from sewage sludge.
R.61-9.503.10(e)	Revise the language of the item concerning application of the regulation to sewage sludge sold or given away in a bag or other container for application to the land.
R.61-9.503.10(f)	Revise the language of the item concerning application of the regulation to material derived from sewage sludge sold or given away in a bag or other container for application to the land.

R.61-9.503.10(g)	Revise the language of the item concerning application of the regulation to material derived from sewage sludge sold or given away in a bag or other container for application to the land.
R.61-9.503.16(a)(1)	Revise the language to correct references.
R.61-9.503.16, Table 1, Note	Following R.61-9.503.16(a)(1), revise the note to change, in some circumstances, the means of determining the amount of sludge related to monitoring frequency of sludge which is land-applied.
R.61-9.503.16(a)(2)	Revise a reference.
R.61-9.503.17(a)(1)(ii)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(2)(ii)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(3)(i)(B)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(3)(ii)(A)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(4)(i)(B)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(4)(ii)(A)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(4)(ii)(E)	Add a new Federal item requiring submittal in the specified circumstances of the date of application of sludge.
R.61-9.503.17(a)(5)(i)(B)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(5)(ii)(C)	Revise the item to eliminate, in the specified circumstances, the requirement to submit the time of application of sludge.
R.61-9.503.17(a)(5)(ii)(F)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(5)(ii)(H)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(5)(ii)(J)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(5)(ii)(L)	Revise the content of the required data-certification statement.
R.61-9.503.17(a)(6)(iii)	Revise the content of the required data-certification statement.
R.61-9.503.17(b)(3)	Revise the item to eliminate, in the specified circumstances, the requirement to submit the time of application of sludge.
R.61-9.503.17(b)(6)	Revise the content of the required data-certification statement.
R.61-9.503.17(b)(7)	Revise the item related to the means of meeting pathogen requirements.
R.61-9.503.18(a)(2)	Revise the item related to reporting when loading of any site

#### 44 PROPOSED REGULATIONS

	approaches the cumulative maximum.
R.61-9.503.21(c)	Revise references to Federal drinking water standards.
R.61-9.503.22(b)	Revise the subsection to include a reference to permits under section 404 of the Clean Water Act and to revise a long-passed compliance date.
R.61-9.503.26(a)(1)	Revise the terminology of the item related to monitoring frequency.
R.61-9.503.26, Table 1	Following R.61-9.503.26(a)(1), revise the Table to add monitoring requirements for operations smaller than 290 tons per year.
R.61-9.503.26(a)(2)	Revise the item, changing references.
R.61-9.503.27(a)(1)(ii)	Revise the content of the required data-certification statement.
R.61-9.503.27(a)(2)(ii)	Revise the content of the required data-certification statement.
R.61-9.503.27(b)(1)(i)	Revise the content of the required data-certification statement.
R.61-9.503.27(b)(2)(i)	Revise the content of the required data-certification statement.
R.61-9.503.31(g)	Revise the definition of pH to consider temperature.
R.61-9.503.32(b)(2)(i)	Revise the item related to the time of collection of samples.
R.61-9.503.32(b)(5)(v)	Revise terminology.
R.61-9.503.33(b)(10)(i)	Revise terminology and allow discretion by the Department in the specified circumstances
R.61-9.503.41(c)	Add a new Federal definition.
R.61-9.503.41(d) - (h)	Renumber the items respectively from existing items (c) - (g) based on the above-mentioned addition.
R.61-9.503.41(i)	Add a new Federal definition.
R.61-9.503.41(j)	Renumber the item from existing items (h) based on the above-mentioned additions.
R.61-9.503.41(k)	Add a new Federal definition.
R.61-9.503.41(l) - (r)	Renumber the items respectively from existing items (i) - (o) based on the above-mentioned addition.
R.61-9.503.43(c)(1)	Revise the item to express the limit as “average ...” and to eliminate the specific units of the limit.
R.61-9.503.43(c)(2)	Add new Federal introductory language related to the dispersion factor to the item.

R.61-9.503.43(c)(2)(i)	Revise terminology.
R.61-9.503.43(c)(2)(ii)	Revise terminology and delete the requirement that the dispersion model be specified by the Department.
R.61-9.503.43(c)(3)	Revise terminology, delete the requirement that the performance test be specified by the Department, and add a reference.
R.61-9.503.43(d)(1)	Revise the item to express the limit as “average ...” and to eliminate the specific units of the limit and to clarify terminology.
R.61-9.503.43, Table 1	Following R.61-9.503.43(d)(1), make a clerical revision to the title of the Table.
R.61-9.503.43(d)(3)	Eliminate the requirement that calculation be as specified by the Department.
R.61-9.503.43, Table 2	Make a clerical revision to the title of the Table.
R.61-9.503.43(d)(4)	Add new Federal introductory language related to the dispersion factor to the item.
R.61-9.503.43(d)(4)(i)	Revise terminology.
R.61-9.503.43(d)(4)(ii)	Revise terminology and delete the requirement that the dispersion model be specified by the Department.
R.61-9.503.43(d)(5)	Revise terminology, delete the requirement that the performance test be specified by the Department, and add a reference.
R.61-9.503.43(e)	Add a new Federal item concerning air dispersion modeling and performance testing, moving the existing item (e) to (f).
R.61-9.503.43(f)	Move the existing item from (e) to (f).
R.61-9.503.45(a)(1), (b), (c), and (d)	Revise terminology and delete the requirement that the instrument be as specified by the Department.
R.61-9.503.45(e)	Delete the existing item and add a new Federal item specifically restricting the combustion temperature during operation.
R.61-9.503.45(f)	Delete the existing item and add a new Federal item relating to air pollution control devices for sewage sludge incinerators.
R.61-9.503.45(f)	Add a new Federal item related to instruments for sewage sludge incinerators.
R.61-9.503.46(a)(1)	Revise the item relate to the monitoring frequency of mercury and beryllium to delete the determination by the Department and to refer to the Federal requirement.

## 46 PROPOSED REGULATIONS

R.61-9.503.46(a)(3)	Revise the item to eliminate the minimum monitoring frequency.
R.61-9.503.46(c)	Revise the item related to the monitoring frequency of pollution control devices to refer to the Federal requirement.
R.61-9.503.47(f)	Revise the item related to records of combustion temperature.
R.61-9.503, Appendix B, B.6	Revise the item to include a specific radiation dose.
<b>R.61-9.504, Standards for the Use or Disposal of Industrial Sludge</b>	
R.61-9.504.9(d), (p), (r), and (bb)	Revise the references in the definitions based on revised numbering of R.61-9.122.2(b).

### **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 and written comments on the proposed amendment to the regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on May 17, 2001. 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, South Carolina. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in order presented. The order of presentation for public hearings will be noticed in the Board's agenda to be 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 presentation for the record. Due to changes in admittance procedures at the DHEC Building, we suggest that all visitors enter through the Bull Street Entrance and register at the front desk.

Interested parties are also provided an opportunity to submit written comments on the proposed amendment to the regulation by writing to Andrew Yasinsac, Jr. at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201. To be considered, written comments submitted must be received no later than 5:00 pm on March 26, 2001. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing as noticed above.

Copies of the final proposed regulation for public hearing may be obtained by contacting Andrew Yasinsac, Jr. at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, telephone number (803)898-4237, Fax number (803) 898-4095, or from the Bureau of Water's website at <http://www.scdhec.net/water/> (then click on "Hot Topics" in the Water Program Index).

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

#### STATEMENT OF NEED AND REASONABLENESS FOR PROPOSED FEDERALLY REQUIRED AMENDMENTS OF R.61-9, WATER POLLUTION CONTROL PERMITS

This statement of need and reasonableness has been developed based on staff analysis pursuant to S.C. Code Section 1-23-115(C)(1) - (3) and (9) - (11):

DESCRIPTION OF REGULATION: R.61-9. Water Pollution Control Permits.

Purpose: To amend Regulation 61-9 in accordance with changes to Federal Regulation 40 CFR Parts 122, 124, 125, 403, and 503.

Legal Authority: This change to state law is authorized by S.C. Code Sections 48-1-10 through 350 and the Clean Water Act, 33 U.S.C. 1251 et seq. and regulations promulgated in the Federal Register on July 17, 1997, August 4, 1999, December 8, 1999, and May 15, 2000.

Plan for Implementation: The additional work required by the proposed amendments, mainly involving additional storm water efforts, will total about one (1) man-year per year. 19 additional permitting, compliance, and inspection [Bureau of Water and EQC District] positions are included in the separately proposed agency budget for increased activity under existing programs. The staff which would be available with the addition of the proposed positions would accomplish any additional tasks required by the amendments.

DETERMINATION OF NEED AND REASONABLENESS FOR THE PROPOSED REGULATION AND EXPECTED BENEFIT: This regulatory amendment is exempt from the requirements to develop a Preliminary Fiscal Impact Statement and a Preliminary Assessment Report because each change is necessary to maintain consistency with Federal Regulations. In amending the Federal regulations, the U.S. Environmental Protection Agency found the following:

(FR 7/17/97, 38406) The FR states the purpose of the amendment of this date as follows: “The new regulations will reduce the administrative burden and cost associated with maintaining approved pretreatment programs without affecting environmental protection.”

(FR 8/4/99) (Page 42434): The FR states the purpose of the amendment of this date as follows: “The Environmental Protection Agency (EPA) today amends permit application requirements and application forms for publicly owned treatment works (POTW) and other treatment works treating domestic sewage (TWTDS). TWTDS include facilities that generate sewage sludge, provide commercial treatment of sewage sludge, manufacture a product derived from sewage sludge, or provide disposal of sewage sludge.

“Today’s rule consolidates POTW application requirements, including information regarding toxics monitoring, whole effluent toxicity (WET) testing, industrial user and hazardous waste contributions, and sewer collection systems overflows. The most significant revisions require toxic monitoring by major POTW (and other pretreatment POTW) and limited pollutant monitoring by minor POTW. EPA believes that permitting authorities need this information in order to issue permits that adequately protect the Nation’s water resources.

“Form 2A replaces existing Standard Form A and Short Form A, used by POTW, to account for changes in the National Pollutant Discharge Elimination System (NPDES) program since the forms were issued in 1973.

“The regulations also clarify the requirements for TWTDS and allow the permitting authorities to obtain the information needed to issue permits that meet the requirements of the 40 CFR Part 503 sewage sludge use or disposal regulations. Form 2S replaces the existing Interim Sewage Sludge Form.” Form 2S also replaces “South Carolina Department of Health and Environmental Control, Bureau of Water Pollution Control, (Draft) Application for a Land Disposal (No Discharge or ND) Permit”. In addition DHEC requires submittal of an engineering report which would include similar information to the Form 2S.

Quoting further, “EPA is revising these regulations to ensure that permitting authorities obtain the information necessary to issue permits which protect the environment in the most efficient manner. The forms make it easier for permit applicants to provide the necessary information with their applications and minimize the need for additional follow-up requests from permitting authorities. EPA expects the rule to reduce current annual reporting and record keeping burdens by 21 percent, by standardizing the forms to match information requests with information needs.”

## 48 PROPOSED REGULATIONS

(FR 8/4/99, Page 42554) Quoting this FR, this "... action amends the existing regulation regarding the land application, surface disposal, and incineration of sewage sludge. The amendments clarify existing regulatory requirements regarding operational standards for pathogen and vector attraction reduction and provide flexibility to the permitting authority and the regulated community in complying with the minimum frequency of monitoring requirements.... It also amends the existing General Pretreatment Regulation for Existing and New Sources of Pollution by adding a concentration for total chromium in land-applied sewage sludge to the list of pollutants that are eligible for a removal credit issued by a wastewater treatment works treating domestic sewage."

(FR 12/8/99): Quoting this FR, these "... regulations (Phase II) expand the existing National Pollutant Discharge Elimination System (NPDES) storm water program (Phase I) to address storm water discharges from small municipal separate storm sewer system (MS4s) (those serving less than 100,000 persons) and construction sites that disturb one to five acres. Although these sources are automatically designated by today's rule, the rule allows for the exclusion of certain sources from the national program based on a demonstration of the lack of impact on water quality, as well as the inclusion of others based on a higher likelihood of localized adverse impact on water quality. Today's regulations also exclude from the NPDES program storm water discharges from industrial facilities that have 'no exposure' of industrial activities or materials to storm water. Finally, today's rule extends from August 7, 2001 until March 10, 2003 the deadline by which certain industrial facilities owned by small MS4s must obtain coverage under an NPDES permit. This rule established a cost-effective, flexible approach for reducing environmental harm by storm water discharges from many point sources of storm water that are currently unregulated.

"EPA believes that the implementation of the six minimum measures identified for small MS4s should significantly reduce pollutants in urban storm water compared to existing levels in a cost-effective manner. Similarly, EPA believes that implementation of Best Management Practices (BMP) controls at small construction sites will also result in a significant reduction in pollutant discharges and an improvement in surface water quality. EPA believes this rule will result in monetized financial, recreation and health benefits, as well as benefits that EPA has been unable to monetize. Expected benefits include reduced scouring and erosion of streambeds, improved aesthetic quality of waters, reduced eutrophication of aquatic systems, benefit to wildlife and endangered and threatened species, tourism benefits, biodiversity benefits and reduced costs for siting reservoirs. In addition, the costs of industrial storm water controls will decrease due to the exclusion of storm water discharges from facilities where there is 'no exposure' of storm water to industrial activities and materials."

(FR 5/15/00) Quoting this FR, "Today's revision is intended to further (beyond 6/29/95 and earlier promulgations) streamline NPDES ... permitting procedures, by revising requirements to eliminate redundant regulatory language, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefit."

### DETERMINATION OF COSTS AND BENEFITS:

For the revisions based on FR of 7/17/97, 8/4/99, and 5/15/00, the costs will be minimal or none. Essentially, administrative changes are required.

For the revisions based on the FR of 12/8/99 and related to storm water, there will be sizeable costs. U.S. EPA estimates that compliance with regulation requirements will cost permittees approximately \$9.18 per household per year. In South Carolina, approximately 60 additional entities (counties and municipalities) will require permits and consequent compliance actions under the proposed permit. For an average population of the entities of 30,000, the estimated annual cost for an average entity would be \$90,000, and the annual cost for all entities would be \$5,400,000. In South Carolina, construction costs for sediment and erosion control should not increase significantly. The existing S.C. Standards for Stormwater Management and Sediment Reduction, Regulation 72-300, requires submittals and installation of controls similar to those expected under the proposed regulation. The U.S. EPA estimate of total national costs, including costs for sediment and erosion controls, is from \$850,000,000 to \$980,000,000 per year.

U.S. EPA estimated the national benefits from the water quality improvements expected from the enhanced storm water regulations. The benefits consist of improving the suitability of waters for boating, fishing, and swimming, with estimates of the beneficial value being related to dollar amounts that respondents to a survey would be willing to pay for the improvements. The U.S. EPA estimates showed annual benefits of between \$670,000,000 and \$1,630,000,000. The maximum benefits significantly exceed costs. Further, U.S. EPA states, "There are additional benefits to storm water control that cannot be quantified or monetized." These benefits include "... improved aesthetic quality of waters, benefits to wildlife and threatened and endangered species, cultural values, and biodiversity benefits." Further benefits mentioned by U.S. EPA which could not be specifically valued are "... flood control benefits, ... increased property value, ... ecological benefits ...."

UNCERTAINTIES OF ESTIMATES: The estimates stated by U.S. EPA in the FR show significant variation, both for cost estimates and benefit estimates. Furthermore, preliminary information from cost estimates related to permits issued in South Carolina suggest that U.S. EPA estimates of costs are significantly lower than actual costs.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: Toxicity testing for at least two species is required of publicly owned treatment works (POTW) by the 8/4/99 Federal Register change to Federal regulations. Toxicity testing for a single species has been required of South Carolina POTW since June, 1998, which is before the specific regulation was promulgated. The requirement for testing a second species will involve significant additional testing costs, but no significant change in permits or the environment is expected from that aspect of revisions.

Revisions to storm water regulations for small construction activities (smaller than five acres) are not expected to make a major change in conditions, as present South Carolina regulations require similar controls. Additional compliance and enforcement measures to be accomplished through additional positions requested in the proposed budget should lead to significant improvements in water quality.

Revisions to storm water regulations for small municipal separate storm sewer systems (MS4) can be expected to lead to significant improvements in water quality near many of the newly-regulated entities.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Federal regulations require all the actions proposed in these amendments. Therefore, all the actions must be carried out even if the proposed regulation is not implemented. However, there would likely be significant delays in achieving some of the water quality improvements if the proposed regulation is not implemented to provide the authority for the Department of Health and Environmental Control to proceed.

**Text:**

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



## 50 PROPOSED REGULATIONS

Document No. 2616

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-10 et seq. and 44-55-10 et seq.

#### R.61-71, Well Standards

##### **Preamble:**

The South Carolina Department of Health and Environmental Control has concluded that the existing regulation requires revision to account for newer well drilling techniques and well construction materials to provide increased protection to public health and to the quality of groundwater in this state.

The proposed revision of R.61-71 provides for requirements for different types of wells in different sections, allowing high solids sodium bentonite as an option for grouting wells, a sanitary seal to protect the wellhead, improved construction for bored wells, construction requirements for direct push wells, and violations and penalties are more specific.

Notices of Drafting for this proposed regulation revision were published in the State Register on May 28, 1999 and May 26, 2000.

#### Discussion of Proposed Revisions of R.61-71

<u>Section</u>	<u>Change</u>
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The entire regulation has been reformatted stylistically for ease of reading, incorporating all requirements.

61-71.1&3	These sections were combined for clarity; and a reference to R.61-44, the Individual Residential and Irrigation Wells Permitting: R.61-44 was added in addition to references to other applicable regulations.
61-71.2	Added new definitions for terms: "Annular Space," "Bored Well," "Borehole," "Borehole Completion," "Boring," "Confining Layer," "Consolidated Formation or Material," "Conventionally Installed Monitoring Well," "Development," "Direct Push Well," "Environmental Soil Sampling Well," "Exploration Boring," "Geotechnical Boring," "Geothermal System Well," "Individual Residential Well," "Irrigation Well," "Permanent Monitoring Well," "Piezometer," "Sanitary Seal," "Screen," "Surface Water," "Temporary Monitoring Well," "Tremie," "Unconsolidated Formation or Material," and "Well Completion." Modified existing definitions used: "Filter Pack," "Monitoring Well," and "Well." Deleted definitions for "Potable Water Well" and "Water Well."
61-71.4	Restated in R.61-71.C and expanded the discussion on variances to provide for equivalent protection of the groundwater resource and public health.
61-71.D	New section added, R.61-71.D, to require a South Carolina certified well driller and that analytical data be provided by a South Carolina Certified Laboratory.
61-71.5.A	Restated in R.61-71.E.1 and added a required minimum distance of five feet from property lines.
61-71.5.B	Restated in R.61-71.E.2

- 61-71.5.C Restated in R.61-71.E.1.k, increasing the distance form a building to five feet, and restated in R.61-71.E.3
- 61-71.6.A Restated in R.61-71.F.1 and R.61-71.G.1. Revised in R.61-71.H.1 to be more appropriate for monitoring wells.
- 61-71.6.B Restated in R.61-71.F.2, R.61-71.G.2, and R.61-71.H.2.a. Added high solids sodium bentonite as an acceptable grout material and provided requirements for wells shallower than twenty feet. Deleted the requirement for bored wells to be grouted within 24 hours.
- 61-71.6.C Restated in R.61-71.F.3.
- 61-71.6.D Restated in R.61-71.F.4 and R.61-71.G.3. Revised in R.61-71.H.1.d to reflect monitoring well requirements.
- 61-71.6.E Restated in R.61-71.F.5 and R.61-71.G.4.
- 61-71.6.F Restated in R.61-71.F.6 and R.61-71.G.5.
- 61-71.6.G Restated in R.61-71.F.7 and R.61-71.G.6.
- 61-71.6.H Restated in R.61-71.F.8, R.61-71.G.7, and R.61-71.H.2.c. In all three sections, the requirements for well yield and static water level were deleted; the requirement for screened interval was deleted from R.61-71.F.8 and R.61-71.G.7.
- 61-71.7.A Restated in R.61-71.F.9.a, R.61-71.G.8, and R.61-71.H.2.b.
- 61-71.7.B Restated in R.61-71.F.9.b.
- 61-71.7.C Restated in R.61-71.F.10 and R.61-71.G.9; replaced the term “gravel pack” with “filter pack.” Replaced requirement for tremie pipe with performance standard for emplacement of filter pack.
- 61-71.7.C (4) Deleted requirement for maximum gravel pack thickness of three inches.
- 61-71.F.11 New section added, R.61-71.F.11, to provide for a sanitary seal.
- 61-71.G.10 New section added, R.61-71.G.10, to provide for a sanitary cover.
- 61-71.8.A Restated in R.61-71.F.12 and R.61-71.G.11.
- 61-71.8.B Deleted requirement to retain formation cuttings.
- 61-71.8.C(1), (3), & (4) Deleted.
- 61-71.8.C(2) Restated in R.61-71.F.12.b, R.61-71.G.11.b, and R.61-71.H.1.f.
- 61-71.8.D(1) Deleted; R.61-71.I.1 does not contain the reporting requirement.
- 61-71.8.D(2) Deleted; R.61-71.I.2 and R.61-71.I.3 contain the reporting requirement.

## 52 PROPOSED REGULATIONS

- 61-71.9 Restated in R.61-71.F.13.a and R.61-71.G.12. Added to both sections: “The well driller is responsible for ensuring wells are constructed in accordance with this regulation. Once the well driller has provided a properly constructed well to the well owner, the well driller is not responsible for normal wear of the well. The well owner is responsible for maintenance and operation of the well.”
- 61-71.F.13.c New section added, R.61-71.F.13.c, to provide for a spigot at the wellhead.
- 61-71.10.A Restated in R.61-71.F.14.a and R.61-71.G.13.a.
- 61-71.10.B(1) Deleted; casing and screens are not being salvaged.
- 61-71.F.14.b & 61-71.G.13.b New sections added, R.61-71.F.14.b and R.61-71.G.13.b, each stating, “Any well removed from service for longer than thirty-six months shall be permanently abandoned.”
- 61-71.10.B(2) Restated in R.61-71.F.14.c, R.61-71.G.13.c and R.61-71.H.1.g.
- 61-71.10.B(3) Revised in R.61-71.F.14.e to read: “When an individual residential well or irrigation well is permanently abandoned, at a minimum, the well may be filled with either bentonite-cement, neat cement, 20% high solids bentonite grout, sand, or gravel to within twenty feet of the surface and the remainder shall be filled with neat cement, bentonite-cement, or 20% high solids bentonite grout.”
- 61-71.10.B(4) Revised in R.61-71.G.13.e to read: “The bored well must be abandoned immediately upon being permanently taken out of service. The well may be filled with either bentonite-cement, neat cement, 20% high solids bentonite grout, sand, or gravel to within twenty feet of the surface and the remainder shall be filled with neat cement, bentonite-cement, 20% high solids bentonite grout, or compacted clay.”
- 61-71.10.B(5) Revised in R.61-71.F.14.d to read, “Abandonment shall be by forced injection of grout or pouring through a tremie pipe starting at the bottom of the well or fill material and proceeding to the surface in one continuous operation.
- 61-71.G.13.d Revised in R.61-71.G.13.d to read, “Abandonment shall be by forced injection of grout or pouring through a tremie pipe starting at the bottom of the well or fill material and proceeding to the surface in one continuous operation, unless compacted clay is used.
- 61-71.11.A(1) Restated in R.61-71.H.1.b.
- 61-71.11.A(2) Restated in R.61-71.H.1.c.
- 61-71.11.B Restated in R.61-71.H.1.a with the requirement for prior approval clarified and the information required on a monitoring well request provided. Additionally, if any of the information changes, the Department is to be notified 24 hours prior to construction.
- 61-71.11.C(1) Restated in R.61-71.H.2.b(1).
- 61-71.11.C(2) Revised in R.61-71.H.2.b(2) to read, “Casing shall have a sufficient diameter to provide access for sampling equipment.”
- 61-71.11.C(3) Restated in R.61-71.H.2.a(5) and provide for either a cement or concrete reinforced pad.
- 61-71.11.C(4) Revised in R.61-71.H.2.a(5) to require forced injection of the grout.

- 61-71.11.C(5) Restated in R.61-71.H.2.b(4).
- 61-71.11.C(6) Revised in R.61-71.H.2.b(5) to read, “A locking cap or other security devices to prevent damage and/or vandalism shall be used.”
- 61-71.11.C(7) Restated in R.61-71.H.1.e.
- 61-71.H.3 New section added, R.61-71.H.3, to provide additional requirements for permanent Direct Push Wells.
- 61-71.H.4 New section added, R.61-71.H.4, to provide additional requirements for Temporary Monitoring Wells.
- 61-71.11.D Restated in R.61-71.H.5
- 61-71.11.E(1) Restated in R.61-71.H.1.a.
- 61-71.11.E(2) Restated in R.61-71.H.1.f.
- 61-71.11.E(3) Restated in R.61-71.H.1.g.
- 61-71.11.F Deleted.
- 61-71.11.G Restated in R.61-71.H.2.d.
- 61-71.11.H Restated in R.61-71.H.2.e.
- 61-71.H.6 New section added, R.61-71.H.6, to provide for non-standard monitoring wells.
- 61-71.I New section added, R.61-71.H.6, to address Borings which include Geotechnical Borings, Exploration Borings, and Environmental Soil Sampling Borings.
- 61-71.12 Revised in R.61-71.J.1 to read, “Violations of this regulation shall be subject to penalties as provided in Sections 48-1-320, 44-55-90 and 48-1-330 of the 1976 S. C. Code of Laws.
- 61-71.J.2 New section added, R.61-71.J.2, for the Department to notify the driller of a violations and to provide for the violations being corrected within a specified time frame and listed the factors to be considered in determining enforcement action.
- 61-71.J.3 New section added, R.61-71.J.3, to assess no monetary penalties for violations that occur despite the driller following all applicable regulations and the driller corrects the violation.
- 61-71.J.4 New section added, R.61-71.J.4, to provide for the Department issuing an order or action in court and allow civil penalties to be assessed.
- 61-71.J.5 New section added, R.61-71.J.5, to provide for civil penalties or criminal prosecution if the violation is not corrected.
- 61-71.J.6 New section added, R.61-71.J.6, allowing the Department access to the driller s bor  
driller is unwilling or unable to take corrective action.

## **54 PROPOSED REGULATIONS**

- 61-71.7 New section added, R.61-71.7, to provide for issuance of an order or field citation to cease and desist operations if the driller is not properly licensed.
- 61-71.K Added new section, R.61-71.K, to provide for severability.

### **Notice of Staff Informational Forum:**

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on March 23, 2001, at 10:00 a.m. at the G.S.T. Peoples Auditorium, Third Floor, Sims Building, of the Department at 2600 Bull Street, Columbia, S. C. The purpose of the forum is to answer questions, clarify issues, and receive comments by interested persons on the proposed regulation revision. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for the Board public hearing scheduled pursuant to S. C. Code Section 1-23-100 and -111 as noticed below.

Copies of the text of the proposed regulation for public notice and comment may be obtained by contacting Jim Hess at the Bureau of Water, S.C. DHEC, 2600 Bull Street, Columbia, S.C. 29201 or call (803) 898-4300.

### **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 regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on April 12, 2001. 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 on its agenda in the order presented. 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 revision by writing to Jim Hess, Bureau of Water, S.C. DHEC, 2600 Bull Street, Columbia, S.C. 29201. Written comments must be received no later than 4:00 p.m. on March 26, 2001. Comments received at the forum and during the public comment period 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 April 12, 2001. 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 final proposed regulation for public hearing before the DHEC Board may be obtained by contacting Jim Hess at the Bureau of Water, S.C. DHEC, 2600 Bull Street, Columbia, S.C. 29201.

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

The Department estimates that the State and its political subdivisions will incur no additional financial impact by the promulgation 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: R.61-71, Well Standards

Purpose: The proposed regulation will help protect the quality of South Carolina's groundwater, drinking water, and public health.

Legal Authority: S.C. Code Sections 48-1-10 et seq., and 44-55-10 et seq.

Plan for implementing: Upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the State Register, copies of the revised regulation and a summary of the revisions will be provided to the regulated community. The existing inspection program will be modified to reflect the changes. The impact to other program areas should be negligible.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Safe drinking water is essential to public health. It is also important to economic development and is a basic indicator of the quality of life. Therefore, protection of drinking water is of critical importance. Approximately 40% of South Carolina's population uses groundwater as their drinking water source. The need to revise this regulation is demonstrated by the development of new drilling techniques and materials since the original regulation was promulgated in 1985. Substandard well construction poses a risk to the health of the residents using drinking water from that well and a risk of contamination being introduced to the aquifer(s) penetrated by drinking water, irrigation, and monitoring wells. In response to consumer complaints, samples have been submitted or more than 6800 drinking wells in South Carolina in the year 2000. Approximately 29% of the initial samples are positive for total coliform bacteria contamination, an indicator of potential downward leakage of surface contaminants. Approximately 6% of these samples were confirmed as having fecal coliform bacteria, indicating the presence of contaminated groundwater and the possible presence of pathogens.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: There will be no increased costs to the State or its political subdivisions as a result of these amendments.

External Costs: The recent developments in drilling techniques and materials result in more cost-effective well installation. High solids sodium bentonite grout is less expensive than portland cement grout and is easier to use; the costs associated with sanitary seals and sampling spigots are minimal.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates relative to costs to the State or its political subdivisions. Refer to the above paragraph for cost estimates for the regulated community.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH. The requirements in the proposed regulation will have a positive effect by increasing protection to human health and the environment through provision for improved construction techniques and materials.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: An unacceptable percentage of individual residential wells and irrigation wells will continue to be poorly constructed, thereby increasing the risk to the residents' health and increasing the risk of contamination reaching the aquifer(s) being penetrated.

**Text:**

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

## 56 PROPOSED REGULATIONS

Document No. 2612  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**OFFICE OF ELEVATOR AND AMUSEMENT RIDE SAFETY**  
CHAPTER 71

Statutory Authority: 1976 Code Section 41-16-140

### **Preamble:**

The Office of Elevator and Amusement Ride Safety proposes to revise existing regulations concerning fees.

### Section by Section Discussion:

#### Section 71-5600. Fee Schedules.

The Department proposes to increase inspection fees for all classes of construction permits and initial operating certificates. The Department proposes to increase inspection fees for temporary permits. The Department proposes to increase the fee for processing reports from licensed special inspectors and issuing annual operating certificates. The Department proposes a new fee for reinspection due to failure to make timely corrections of all deficiencies notes in an annual inspection report.

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

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at the Administrative Law Judge Division at 10:00 a.m. on Thursday, April 19, 2001. Written comments may be directed to Jerry Butler, Administrator, Elevator and Amusement Ride Safety and Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329 no later than 5:00 p.m. on Monday, March 26, 2001.

**Preliminary Fiscal Impact Statement:** This regulation will have a limited impact upon the construction cost of buildings equipped with elevators and built for state and local governments. The cost of construction will increase by \$50 per elevator.

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

#### DESCRIPTION OF REGULATION:

Purpose: To comply with SC Code Section 41-16-140.

Legal Authority: Statutory Authority: 1976 Code Section 41-16-140.

Plan for Implementation: The Department will notify all building officials and elevator installation companies of the increased fees using a mail-out.

**DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT:** The Department is directed to charge inspection fees which are based upon the costs of administering the provisions of the South Carolina Elevator Safety Code. New elevators are increasingly complex; plan reviews and inspections take longer and require more expertise. Employee training costs have risen with the need to inspect more sophisticated elevators. Travel costs have increased. Based upon these increased costs, the agency proposes increased fees for construction permits and initial operating certificates.

The Department has not proposed increased fees for most annual inspections. Most facility owners maintain their equipment such that the cost of these inspections can be controlled. The Department does propose an

additional fee for those who do not maintain their equipment or respond to the first notice of deficiencies. Complying owners should not bear the burden of paying for these additional inspections.

The Department has proposed to increase the fee for processing the reports of annual inspections by licensed special inspectors and the issuing of renewal certificates. The increased fee reflects the costs of assuring uniformity and completeness of inspections as well as timely issuing of annual operating certificates.

**DETERMINATION OF COSTS AND BENEFITS:** Costs: \$50 per elevator for new construction. \$10 per elevator for processing annual renewals for facilities inspected by licensed special inspectors. Benefits: Timely and complete elevator inspections without cost to general public.

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

**DETRIMENTAL EFFECTS ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED:** There will be no detrimental effect on the environment and public health of this State if this regulation is not implemented in this State.

**Text:**

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

Document No. 2610  
**DEPARTMENT OF PUBLIC SAFETY**  
Chapter 38  
Statutory Authority: 1976 Code Section 56-5-2953  
Article 9  
In Car Camera Videotaping Equipment  
R.38-900

**Preamble:**

The Department proposes to adopt regulations 38-900 through 38-902. The proposed regulation will address the Department's requirement for installing and maintaining video camera equipment in all law enforcement vehicles used for traffic enforcement. A Notice of Drafting for the Proposed Regulations was published in the State Register on January 26, 2000. A discussion of the proposed regulations and statement of need and reasonableness is contained herein.

**Section by Section Discussion**

- 38-900 This section provides definitions.
- 38-901 This section describes how the installation of the videotaping equipment will be conducted.
- 38-902 This section describes how the videotaping equipment will be inventoried.

**Preliminary Fiscal Impact:** The Department anticipates no additional fiscal impact with the implementation of these regulations as the General Assembly has provided funding for the implementation in Sections 56-1-286, 56-5-2951 and Section 14-1-208(C)(9).



## 58 PROPOSED REGULATIONS

### Notice of Public Hearing

The South Carolina Department of Public Safety will conduct a public hearing for the purpose of receiving oral comments, data, views or arguments on March 30, 2001 at 10:00 a.m. if requested in accordance with the provisions of Section 1-23-110 by twenty-five persons, by a governmental sub-division or agency, or by an association having not less than twenty-five members. Requests for a hearing must be in writing and received by the Department of Public Safety by 5:00 p.m. on March 26, 2001. The public hearing will be held at the Administrative Law Judge Division, 1205 Pendleton Street, Brown Building, Second Floor, Columbia, South Carolina 29201. Written comments will be accepted until 5:00 p.m., March 26, 2001. Please submit comments and hearing requests to Ms. Rachel Erwin, South Carolina Department of Public Safety, 5410 Broad River Road, Columbia, South Carolina 29210.

### Statement of Need and Reasonableness

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

#### DESCRIPTION OF REGULATION:

**Purpose:** To provide a method for the Department to implement the provisions of Section 56-5-2953 which requires the Department to install and maintain video equipment in all law enforcement vehicles used for traffic enforcement.

**Authority:** Section 56-5-2953(F) requires the Department of Public Safety to promulgate regulations on this matter.

**Plan for Implementing:** The Department will implement these regulations with funding it receives pursuant to Sections 56-1-286, 56-5-2951 and Section 14-1-208 (C)(9) once they become effective.

### Text

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

Document No. 2611

### DEPARTMENT OF PUBLIC SAFETY

Chapter 38

Statutory Authority: 1976 Code Section 56-5-2953

Article 7 Highway Patrol

Subarticle 1 Wrecker Regulations

### Preamble:

The Department proposes to amend regulation 38-600. The proposed amendment will delete a requirement that wreckers on the Highway Patrol Wrecker Rotation List carry Hook and Cargo Insurance. The Department has determined that this requirement has been cost prohibitive for many wrecker services and, in fact, does not cover all losses and damages the insurance was intended to cover. Additionally, a requirement that such wrecker services accept either checks or major credit cards is being added. A Notice of Drafting for the Proposed Regulations was published in the State Register on January 26, 2000. A discussion of the proposed regulations and statement of need and reasonableness is contained herein.

Section by Section Discussion

38-600. This section contains the requirements for a wrecker service to be added to the Highway Patrol’s Wrecker Rotation List. A requirement that such wrecker services carry “hook and cargo” insurance is being deleted from paragraph (22) and the remaining paragraphs renumbered accordingly. Additionally, paragraph (18) of the regulations has been amended to add a requirement that such wrecker services accept either checks or major credit cards. Finally paragraph (15) has been amended to clarify that charges for wrecker services under the wrecker rotation list must be fair and reasonable.

**Preliminary Fiscal Impact:** The Department anticipates no fiscal impact as a result of these regulations. The deletion of the requirement to carry “hook and cargo” insurance will have not financial impact on the Department and will be a cost savings for wrecker services on the Highway Patrol Wrecker Rotation List. The requirement that wrecker services either accept checks or credit cards will, again, have no financial impact on the Department and should have a minimal impact on the wrecker services.

**Notice of Public Hearing**

The South Carolina Department of Public Safety will conduct a public hearing for the purpose of receiving oral comments, data, views or arguments on March 30, 2001 at 2:00 p.m. if requested in accordance with the provisions of Section 1-23-110 by twenty-five persons, by a governmental sub-division or agency, or by an association having not less than twenty-five members. Requests for a hearing must be in writing and received by the Department of Public Safety by 5:00 p.m. on March 26, 2001. The public hearing will be held at the Administrative Law Judge Division, 1205 Pendleton Street, Brown Building, Second Floor, Columbia, South Carolina 29201. Written comments will be accepted until 5:00 p.m., March 26, 2001. Please submit comments and hearing requests to Ms. Rachel Erwin, South Carolina Department of Public Safety, 5410 Broad River Road, Columbia, South Carolina 29210.

**Statement of Need and Reasonableness**

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

DESCRIPTION OF REGULATION:

**Purpose:** To enhance the Department’s administration of the Highway Patrol’s Wrecker Rotation List.

**Authority:** Section 23-6-20 and 23-6-400 et seq. allows the Department of Public Safety to promulgate regulations on this matter.

**Plan for Implementing:** The proposed amended regulation will be administered in the same manner as the existing regulation.

**Text**

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

## 60 FINAL REGULATIONS

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

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

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

### **Synopsis:**

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

**Instructions:** Amend R.43-80 by adding the following text after Section (DD).

### **Text:**

Add 43-80 (EE):

(EE). The Department of Education will establish a School Bus Specifications Committee for the purpose of creating specifications for the procurement of state-owned school buses. The Committee will be composed of members of the General Assembly or their designees; representatives of the business community; mechanical engineers profession; both local school district and state student transportation officials representing school bus maintenance, administration, driver training, and operations; and a representative of the Budget and Control Board, Materials Management Office. The State Superintendent of Education or designee will make Committee appointments. The Committee will be responsible for reviewing, amending, and developing school bus specifications for all types of school buses purchased by the State. These specifications will assure that the student transportation needs of the State are efficiently and effectively addressed. The Committee will recommend the specifications to the State Superintendent of Education or designee for approval.

Fiscal Impact Statement: There is no anticipated financial impact.

Resubmitted April 13, 2000

Document No. 2481  
**DEPARTMENT OF EDUCATION**  
 CHAPTER 43

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

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

**Synopsis:**

The State Department of Education proposes to align its school bus driver testing requirements with those of the Department of Public Safety. The Department of Public Safety is establishing new commercial driver's licenses that are specifically designed for school bus drivers. The Department of Public Safety will offer a School Bus Driver Restricted Commercial Driver's License (CDL-T restricted) and a Commercial Driver's License with a School Bus Driver Endorsement (CDL-S endorsement). These new commercial driver's licenses will contain testing requirements equivalent to the existing testing requirements of the State Department of Education School Bus Driver's Certification. The proposed regulation will allow the State Department of Education to accept the new school bus driver commercial driver's licenses as appropriate tests to determine a school bus driver's competency. The State Department of Education will provide school bus driver training as a prerequisite for a driver qualifying to take either of the new school bus driver commercial driver's licenses. To determine a school bus driver's ability to perform these physical actions, the proposed regulation directs the State Department of Education to establish a physical performance test as an extension of the school bus driver's commercial driving test. The proposed regulation aligns the requirement for the driver's medical examination with the requirements of the Commercial Drivers' License.

**Instructions:** Amend R.43-80 as instructed with each individual amendment provided with the text of the amendments below.

**Text:**

The following sections have been replaced. All other sections of R.43-80 will remain.

Replace 80 N:

N. School bus drivers shall be required to have a physical examination certified by a physician prior to the testing required to operate a school bus and every two years thereafter. The examining physician's certification shall be made on forms provided by the State Department of Education or the United States Department of Transportation. The school bus driver candidate must provide the testing administrator with the certified physical examination prior to taking the school bus driver physical performance test and the commercial driver's license skills test. The school bus driver candidate must provide a copy of the physician's certification to the employing school district. A school district may require additional physical examinations as the district determines to be appropriate. The State assumes no responsibility for the cost of physical examinations required by districts.

Prospective drivers must meet all the requirements for testing for the Commercial Driver's License and not have more than four (4) points against his/her license or driving record (MVR) including no more than four (4) points against his/her license or driving record in the previous twelve months. Drivers accumulating more than four (4) points after employment will be placed on probation, suspended without pay, or terminated as deemed appropriate by the school district based on the nature and severity of the driving offense(s).

School districts shall have a substance abuse program for school bus drivers and driver supervisory personnel. The program shall include at a minimum: (1) a substance abuse policy; (2) a substance abuse

## 62 FINAL REGULATIONS

education program; (3) substance abuse testing; and (4) a substance abuse referral assistance program. The substance abuse testing program shall comply with the U. S. Department of Transportation testing program for drivers of passenger vehicles. The Department of Education shall institute a like substance abuse program for Department maintenance shop personnel.

If a bus driver receives a ticket for DUI, he/she will be suspended without pay and, if convicted of DUI, the driver shall be terminated.

Replace 80 T (2):

T. Special Transportation Service

2. All drivers must complete the Department of Education School Bus Driver's Certification program and possess a School Bus Commercial Driver's License (with a "T" school bus restriction), or the appropriate Commercial Driver's License with endorsements, issued by the State Department of Public Safety. The School Bus Driver's Certification program shall verify that a driver has satisfactorily completed a rigid school bus driver training course. The training and testing of the Department of Education School Bus Driver's Certification program shall be administered by individuals so certified by the Department of Education. The school boat must be operated by the Captain designated by the Department of Education. All school bus drivers, while being licensed or certified, must complete a physical performance test to demonstrate their physical ability to operate the school bus and to carry out the evacuation of students from the school bus.

**Fiscal Impact Statement:** None

Document No. 2504

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

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

R.61-30. Environmental Protection Fees

**Synopsis:**

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

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

Discussion of Revisions:

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

<u>SECTION CITATION</u>	<u>EXPLANATION OF CHANGE</u>
61-30.G(1)(a)	Revision of annual operating fee excludes municipal separate storm sewer system (MS4) permits and coverage under a general permit
61-30.G(1)(a)(iii)	Coverage under general permit is revised to exclude MS4 general permit
61-30.G(1)(a)(iv)	New section is added to address fees for Municipal Separate Storm Sewer Systems
61-30.G(1)(a)(iv)	Existing section is renumbered to 61-30.G(1)(a)(v). No other changes.
61-30.G(1)(c)(v)	Section is revised to 61-30.G(1)(c)(v), (v)1 and (v)2. Establishes a fee per disturbed acre; clarifies fee structure for when the Department is the entity responsible for reviewing the storm water pollution prevention plan submitted for review and when an entity other than the Department is responsible.

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

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

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

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

## 64 FINAL REGULATIONS

61-30.G(4)(g)(i)	Laboratory certification services for Safe Drinking Water Act (SDWA) Organics - fee increase for trihalomethanes
61-30.G(4)(g)(ii)	Laboratory certification services for SDWA - fee increase for organic compounds
61-30.G(4)(g)(iii)	Laboratory certification services for SDWA - fee increase for volatiles
61-30.G(4)(h)(i)	Laboratory certification services for microbiology - fee increase for total coliform
61-30.G(4)(h)(ii)	Laboratory certification services for microbiology - fee increase for fecal coliform
61-30.G(4)(h)(iii)	Laboratory certification services for microbiology - fee increase for fecal streptococci
61-30.G(4)(j)(i)	Laboratory certification services for solid and hazardous waste (SW-846 methods) - fee increase for inorganics (per parameter)
61-30.G(4)(j)(ii)	Laboratory certification services for solid and hazardous waste (SW-846 methods) - fee increase for organics (per parameter group). Also, SW-846 certification fee cap amount is increased for those laboratories which have paid the applicable per-parameter fees for CWA tests.
61-30.G(4)(k)(i)	Laboratory certification services for air quality analysis - fee increase for inorganics (per parameter)
61-30.G(4)(k)(ii)	Laboratory certification services for air quality analysis - fee increase for organics (per parameter group). Also, certification fee cap amount is increased for those laboratories which have paid the applicable per-parameter fees for CWA tests.

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

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

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

<u>SECTION CITATION</u>	<u>EXPLANATION OF CHANGE</u>
61-30.G(5)(i)	Radioactive materials licenses - fee increase for irradiator (unshielded)
61-30.G(5)(j)	Radioactive materials licenses - fee increase for irradiator (self-contained)
61-30.G(5)(k)	Radioactive materials licenses - fee increase for large quantity source
61-30.G(5)(l)	Radioactive materials licenses - fee increase for industrial radiography (in -plant only)
61-30.G(5)(m)	Radioactive materials licenses - fee increase for industrial radiography (temporary field site)

61-30.G(5)(n)	Radioactive materials licenses - fee increase for industrial radiography under reciprocity
61-30.G(5)(o)	Radioactive materials licenses - fee increase for general license for distribution
61-30.G(5)(p)	Radioactive materials licenses - fee increase for medical institution
61-30.G(5)(q)	Radioactive materials licenses - fee increase for teletherapy
61-30.G(5)(r)	Radioactive materials licenses - fee increase for industrial gauges
61-30.G(5)(s)	Radioactive materials licenses - fee increase for Laboratories-Commercial/Medical
61-30.G(5)(t)	Radioactive materials licenses - fee increase for educational institution
61-30.G(5)(u)	Radioactive materials licenses - fee increase for nuclear pharmacy
61-30.G(5)(v)	Radioactive materials licenses - fee increase for medical private practice
61-30.G(5)(w)	Radioactive materials licenses - fee increase for moisture/density gauge
61-30.G(5)(x)	Radioactive materials licenses - fee increase for gas chromatograph
61-30.G(5)(y)	Radioactive materials licenses - fee increase for services/consultants
61-30.G(5)(z)	Radioactive materials licenses - fee increase for bone mineral analyzer
61-30.G(5)(aa)	Radioactive materials licenses - fee increase for eye applicator
61-30.G(5)(bb)	Radioactive materials licenses - fee increase for medical/academic board license
61-30.G(5)(cc)	Radioactive materials licenses - fee increase for well logging
61-30.G(5)(dd)	Radioactive materials licenses - fee increase for mobile scanning services
61-30.G(5)(ee)	Radioactive materials licenses - fee increase for decontamination/nuclear laundry
61-30.G(5)(ff)	Radioactive materials licenses - fee increases for All Other

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

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

**Instructions:** Amend R.61-30 pursuant to each individual instruction provided with the text below.

**Text of Amendments:**



## 66 FINAL REGULATIONS

### Replace R.61-30.G(1)(a) introductory; G(1)(a)(i) and (ii) remain the same:

(a) Annual Fees for NPDES and State Construction Permits and State Land Application Permits. Annual operating fees for facilities with five or less pipes must be calculated based on the previous year's actual flow except for municipal separate storm sewer system (MS4) permits and coverage under a general permit. Annual operating fees for facilities with more than five pipes must be calculated based on the number of pipes except for municipal separate storm sewer system (MS4) permits and coverage under a general permit.

### Replace R.61-30.G(1)(a)(iii) to read:

(iii) Coverage under General Permit except for the Construction NPDES Storm Water Permit and MS4 General Permit	\$	75
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### Add new R.61-30.G(a)(iv); existing G(1)(a)(iv) is renumbered to G(1)(a)(v):

(iv) Municipal Separate Storm Sewer Systems		
1. Individual Permits		
a. Large MS4 (population equal to or greater than 250,000)	\$	25,000
b. Medium MS4 (population equal to or greater than 100,000 and less than 250,000)		15,000
c. Small MS4 (population less than 100,000)	\$	10,000
2. Coverage under a MS4 General Permit	\$	2,000

### Replace R.61-30.G(1)(c)(v) to read:

(v) Construction NPDES Storm Water Permit		
1. When the Department is the entity responsible for reviewing the Storm Water Pollution Prevention Plan submitted for review.	\$	125 plus \$ 50 per disturbed acre (Not to exceed \$ 2000)
2. When an entity other than the Department is responsible for review of the Storm Water Pollution Prevention Plan and the entity's approval serves as a notice of intent for coverage under the general permit.	\$	125

### Replace R.61-30.G(4)(a) through G(4)(h)(iii) to read:

#### (4) Laboratory Certification Services:

(a) Application Fee	\$	125
(b) Minimum Annual Fee (per laboratory)	\$	125
(c) Clean Water Act (CWA) Inorganics per parameter	\$	20

(d)	Safe Drinking Water Act (SDWA) Inorganics per parameter	\$	20
(e)	SDWA "Secondary" Inorganics pr parameter	\$	20
(f)	CWA Organics:		
(i)	PCBs and Pesticides	\$	350
(ii)	Herbicides	\$	350
(iii)	Volatiles	\$	350
(iv)	Semi-Volatiles	\$	350
(v)	Dioxins and Furans	\$	350
(g)	SDWA Organics:		
(i)	Trihalomethanes	\$	350
(ii)	Organic Compounds	\$	350
(iii)	Volatiles	\$	350
(h)	Microbiology:		
(i)	Total Coliform	\$	75
(ii)	Fecal Coliform	\$	75
(iii)	Fecal Streptococci	\$	75

**Replace R.61-30.G(4)(j) through G(4)(j)(ii) to read:**

(j)	Solid and Hazardous Wastes (SW-846 Methods):		
(i)	Inorganics (per parameter)	\$	20
(ii)	Organics (per parameter group)	\$	350

Note: SW-846 certification fees shall be capped at \$1,500 for those laboratories which have paid the applicable per-parameter fees for CWA tests.

**Replace R.61-30.G(4)(k) through G(4)(k)(ii) to read:**

(k)	Air Quality Analysis:		
(i)	Inorganics (per parameter)	\$	20

## 68 FINAL REGULATIONS

(ii) Organics (per parameter group) \$ 350

Note: Air Quality Certification fees shall be capped at \$1,500 for those laboratories which have paid the applicable per-parameter fees for CWA tests.

### Replace R.61-30.G(5)(i) through G(5)(ff) to read:

(i) Irradiator (unshielded)	\$ 4,795
(j) Irradiator (Self-contained)	\$ 250
(k) Large Quantity Source	\$ 1,000
(l) Industrial Radiography (In-Plant only)	\$ 895
(m) Industrial Radiography (Temporary Field Site)	\$ 1,075
(n) Industrial Radiography Under Reciprocity	\$ 1,075
(o) General License for Distribution	\$ 645
(p) Medical Institution	\$ 565
(q) Teletherapy	\$ 800
(r) Industrial Gauges	\$ 275
(s) Laboratories-Commercial/Medical	\$ 260
(t) Educational Institution	\$ 325
(u) Nuclear Pharmacy	\$ 995
(v) Medical Private Practice	\$ 470
(w) Moisture/Density Gauge	\$ 260
(x) Gas Chromatograph	\$ 150
(y) Services/Consultants	\$ 165
(z) Bone Mineral Analyzer	\$ 345
(aa) Eye Applicator	\$ 345
(bb) Medical/Academic Board License	\$ 1,850
(cc) Well Logging	\$ 900

(dd) Mobile Scanning Services	\$	525
(ee) Decontamination/Nuclear Laundry	\$	3,500
(ff) All other	\$	270

**Add R.61-30.G(11) to read:**

(11) Individual Residential Well Monitoring - These fees are to be charged for water samples collected by individuals from their residential well and submitted to the Department for analysis. These fees will not be charged if the samples are considered part of a Department groundwater contamination investigation and may be waived or reduced based on the individual's ability to pay. Ambient water samples and samples from public water systems will not be accepted and analyzed.

(a) Total or Fecal Coliform	\$	20 per test
(b) Metals and Minerals	\$	50 per sample
(c) Other Inorganic Parameters	\$	25 per parameter
(d) Volatile Organic Chemicals	\$	50 per sample
(e) Herbicides, Pesticides, and other Synthetic Organic Parameters	\$	50 per parameter

**Add R.61-30.G(12) to read:**

(12) Infectious Waste Annual Fees.

(a) Generators of 1000 pounds per month or more.	\$	600
(b) Generators of 50 pounds per month through 999 pounds per month	\$	150
(c) Transporters	\$	500

**Replace R.61-30.H(2)(c)(i) to read:**

- (c) Air Quality:
  - (i) Construction permit 90 Days  
 (Except for permits issued under the NESHAP Regulation [R.61-62.63] which provides 105 days for permit issuance.)

**Fiscal Impact Statement:**

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

## 70 FINAL REGULATIONS

- (2) Add a fee for Laboratory Analysis of Private Drinking Water Wells: Individual private well owners will no longer be able to obtain a free analysis of well water. A nominal fee is instituted with exceptions being made for indigent cases.
- (3) Increase fees for Laboratory Certification: Laboratories will pay increased fees for both applications and annual operating permits, as well as the per parameter cost for certification.
- (4) Add a fee for Infectious Waste Management: A new fee for Infectious Waste Generators and Transportors will be implemented. This additional cost has been historically authorized by the statute, but until this amendment, not implemented by the Department.
- (5) Increase fees for Specific Radioactive Materials Licenses: Fees for Specific Radioactive Licenses are increased significantly. Increased revenue in the program is required to maintain staff levels and program operational protocol.
- (6) Time Frames for Review of Certain Air Quality Permits. There are no fiscal impacts involved with changing Air Quality Time Frames.

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

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

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

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

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

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

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

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

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

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

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

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

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

## 72 FINAL REGULATIONS

### DETERMINATION OF COSTS AND BENEFITS:

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

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

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

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

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

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

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

(4) Increase fees Infectious Waste Management: The infectious waste program is funded by the collection of fees. The Infectious Waste Management Act provides for a treatment fee to help fund the infectious waste program, the infectious waste contingency fund, and the Hampton county delegation fund. The Act, also, allows for the collection of an inspection fee. The treatment and inspection fee is based upon the amount of waste treated in our state. In recent years, receipts from these infectious waste fees have not been sufficient to fully fund the program.

The amount of waste treated has fallen off since 1995. For the last year and a half, the treatment and inspection fees have provided less than half of the requisite funds. Therefore, the program needs to collect fees from another source. Since the Act specifically allows for the collection of fees, the program is asking to charge fees to generators and transporters. These new fees should make up the deficit created by lower waste receipts at the commercial facility.

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

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

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

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

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

#### **UNCERTAINTIES OF ESTIMATES:**

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

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

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

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

(3) Increase fees for Laboratory Certification: Certified Laboratories are the backbone of monitoring and compliance efforts for every sector of the regulated community. It is imperative to continue to provide a high



## 74 FINAL REGULATIONS

quality population of certified laboratories to operate with the state. Without proper staffing and operational funding, the high quality of the inspection and certification program cannot be maintained.

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

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

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