

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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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

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P.O. Box 11489
Columbia, South Carolina 29211**

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

Name _____

Address _____

Telephone _____

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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.scstatehouse.net

DOC No.	RAT No.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
2541	R109	SR25-7	Lic Comm Residential Care Facilities		Department of Health and Envir Control
2533*	R111	-	Criminal Justice Information System		Law Enforcement Division
2609*	R160		State Human Resources		Budget and Control Board
2567			Req for Additional Area of Certification	1 14 02	Board of Education
2581			Continuing Insurance Education	1 15 02	Department of Insurance
2600			Need-based Grants Program	1 22 02	Commission on Higher Education
2601			Palmetto Fellows Scholarship Program	1 22 02	Commission on Higher Education
2569			Types and Levels of Credential Classif	1 27 02	Board of Education
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2566			Graduation Requirements	3 09 02	Board of Education
2616			Well Standards	3 10 02	Department of Health and Envir Control
2518			Perinatal Care	3 16 02	Department of Health and Envir Control
2620			Percentage Storm or Wind/Hail Deduct	3 26 02	Department of Insurance
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2626			Licensing Nonpublic Postsecondary Ed Instit	5 01 02	Commission on Higher Education
2610			In Car Camera Videotaping Equipment	5 06 02	Department of Public Safety
2611			Highway Patrol, Wrecker Regulations	5 06 02	Department of Public Safety
2623			Standards for Permitting Body Piercing	5 07 02	Department of Health and Envir Control
2593			Nitrogen Oxides	5 07 02	Department of Health and Envir Control
2625			Student Loan Corp	5 07 02	Commission on Higher Education
2631			Staff Leasing Services	5 07 02	Department of Consumer Affairs

*** Approval pending Governor's signature on Joint Resolutions**

REQUESTED TO WITHDRAW (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2573	4 24 01	Food Stamp Program	Department of Social Services
2564	5 31 01	Accreditation Criteria	Board of Education

RESOLUTION INTRODUCED TO DISAPPROVE (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2360	1 17 01	LIFE Scholarship	Commission on Higher Education

WITHDRAWN:

DOC No.	DATE	SUBJECT	AGENCY
2603	7 09 01	End-of-Course Tests	Board of Education

2 EXECUTIVE ORDERS

No. 2001-18

WHEREAS, the State of West Virginia has been besieged by heavy rain resulting in massive flooding and has requested assistance from the State of South Carolina under the terms of the Emergency Management Assistance Compact, as provided in Section 25-9-420 of the South Carolina Code of Laws; and

WHEREAS, West Virginia civil authorities have specifically requested the support of South Carolina National Guard to assist in the flood fighting and debris removal as a result of this disaster; and

WHEREAS, the South Carolina National Guard are prepared to provide the personnel and equipment necessary to assist the impacted area.

NOW THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina, I hereby direct the Adjutant General to place on state duty and utilize the South Carolina National Guard personnel and equipment, as he deems necessary, to fulfill the mission in support of the State of West Virginia during this time of emergency. National Guard personnel and equipment deployment and mission requirements should be coordinated through the Emergency Preparedness Division in accordance with the Emergency Management Assistance Compact. This Executive Order is retroactive to July 15, 2001.

**GIVEN UNDER MY HAND AND THE
SEAL OF THE STATE OF SOUTH
CAROLINA, THIS 16th DAY OF JULY
2001.**

**JIM HODGES
Governor**

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

ERRATA

Document No. 2615
Amendment of R.61-9, *Water Pollution Control Permits*

Document 2615 amended R.61-9, *Water Pollution Control Permits*, by publication in the State Register on July 27, 2001. This amendment conformed the state regulation to federal regulations through May 15, 2000. This errata is to correct two errors, as follows:

One:

In Document 2615, only 61-9.122.1(a)(1)-(4) were revised. However, in replacing section 61-9.122.1(a) in the text of Document 2615 to show the changes to 61-9.122.1(a)(1)-(4), the subsection heading, "(a) Coverage", which was not changed in this amendment, was inadvertently omitted. For clarity, this section should read as follows:

61-9.122.1(a) Coverage.

(1) The regulatory provisions contained in R.61-9.122 and 124 implement the National Pollutant Discharge Elimination System (NPDES) Program under sections 318, 402, and 405 of the Clean Water Act (CWA) (Public Law 92-500, as amended by Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4; 33 U.S.C. 1251 et seq.) and the South Carolina Pollution Control Act, S.C. Code Ann. 48-1-10, et seq.

(2) These provisions cover basic Department permitting requirements (122) and procedures for Department processing of permit applications and appeals (124).

(3) These provisions also establish the requirements for public participation in State permit issuance and enforcement and related variance proceedings.

(4) The NPDES permit program has separate, additional provisions that are used by the Department to determine what requirements must be placed in permits, if issued. These provisions are located at S.C. R61-9.125, 129, 133, and 503, 40 CFR 136, and 40 CFR subchapter N (parts 400 through 471).

Two:

In the Discussion of Revisions in Document 2615 at 61-9.122.26(c)(2), the explanation of the change stated, "Remove all language from the subsection related to group applications and reserve the subsection." However, in the text section of Document 2615, the instruction to show this change was inadvertently omitted. R.61-9.122.26(c)(2) should read as follows:

122.26(c)(2) [Reserved]

4 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #01-501-GP-N

August 24, 2001

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-02) "Fuel Combustion Operations." This general permit was previously opened for a 30 day public comment period on December 28, 2000, with final issuance on August 01, 2001. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

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

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

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

BEAUFORT COUNTY

US Naval Hospital
1 Pinckney Blvd
Beaufort SC

Roper Hospital
316 Calhoun Street
Charleston SC

Charleston Naval Hospital
3600 Rivers Ave
N. Charleston SC

FLORENCE COUNTY

McCall Farms Inc
6615 S Irby Street
Effingham SC

McLeod Regional Medical Center
555 E Cheves Street
Florence SC

GREENVILLE COUNTY

Columbia Farms Inc - Greenville
1354 Rutherford Rd
Greenville SC

Geschmay Corporation
525 Old Piedmont Hwy
Greenville SC

Furman University
3300 Poinsett Hwy
Greenville SC

GREENWOOD COUNTY

Self Memorial Hospital
1325 Springs Street
Greenwood SC

LEE COUNTY

SC DC - Lee Correctional Facility
1204 E Church Street
Bishopville SC

LEXINGTON COUNTY

Lexington Medical Center
2720 Sunset Blvd
West Columbia SC

Columbia Farms Inc - West Columbia
338 Sunset Blvd
West Columbia SC

6 NOTICES

MARION COUNTY

Heritage Sportswear LLC
505 Manning Street
Marion SC

ORANGEBURG COUNTY

South Carolina State University
300 College Street NE
Orangeburg SC

PICKENS COUNTY

Combined Utility System
150 Utility Street
Easley SC

RICHLAND COUNTY

Palmetto Baptist Medical Center
1519 Marion Street
Columbia SC

SC Department of Mental Health
2100 Bull Street
Columbia SC

SC Office Of General Services Energy Facility
1121 College Street
Columbia SC

State Park Health Center
8500 Farrow Rd, Building #103
State Park SC

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

The Department of Health and Environmental Control (Department) prepares Air Modeling Guidelines to provide assistance to facilities concerning compliance demonstrations and modeling issues. In addition, the Department periodically updates the Air Modeling Guidelines as new models and/or modeling procedures are developed by the Environmental Protection Agency. Accordingly, the Department has revised the Air Modeling Guidelines and is making the updated version available to the public. The updated version is dated July 2001 and replaces the previous version that was dated January 2000. This document is available for download at <http://www.scdhec.net/baq/>. Questions concerning this document should be referred to the air dispersion modeling section manager at (803) 898-4123.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

Public Notice #01-500-GP-N

August 24, 2001

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality, does hereby give notice of authorization being granted to the following sources who have requested coverage under General Conditional Major Operating Permit (GCMP-01) "Textile Greige Operations." This general permit was previously opened for a 30 day public comment period on December 28, 2000, with final issuance on August 01, 2001. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), the Department may now grant coverage to those qualified sources seeking to operate under the terms and conditions of this general permit. The authorization of each facility's coverage shall be a final permit action for purposes of administrative review.

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

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

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

ABBEVILLE COUNTY

Westpoint Stevens - Calhoun
Main Street
Calhoun Falls SC

ANDERSON COUNTY

Mount Vernon Mills Inc - Williamston
15 Broad Street
Williamston SC

Chiquola Industrial Products Group LLC
410 Chiquola Ave
Anderson SC

8 NOTICES

CHEROKEE COUNTY

TNS Mills Inc - Gaffney
325 Wilcox Ave
Gaffney SC

Hamrick Mill Hamrick Plant
2526 Cherokee Ave
Gaffney SC

FLORENCE COUNTY

Delta Mills Marketing-Pamplico
1828 N Old River Rd
Pamplico SC

GREENVILLE COUNTY

Dan River Inc - White Horse Facility
2721 White Horse Rd
Greenville SC

Delta Mills Inc - Estes
750 Estes Dr
Piedmont SC

JPS Apparel Fabrics Corp Monaghan Plant
201 Smythe Street
Greenville SC

GREENWOOD COUNTY

Greenwood Mills Inc - Harris Plant
Calhoun Street
Greenwood SC

Greenwood Mills Inc - Durst Plant #8
612 Florida Ave
Greenwood SC

Greenwood Mills Inc - Mathews Plant
Kirksey Dr
Greenwood SC

HORRY COUNTY

Chiquola Spinners LLC
4701 Adrian Hwy
Conway SC

KERSHAW COUNTY

Deroyal Textiles
125 E York Street
Camden SC

Kendall Company-Wateree Plant
90 E Hampton Street
Camden SC

LAURENS COUNTY

CMI Industries Inc - Bailey Plant
Hwy 76 W
Clinton SC

CMI Industries Inc - 1 & 2 Plant
600 Academy Street
Clinton SC

JPS Apparel Fabric Corporation
35 Lucas Ave
Laurens SC

SPARTANBURG COUNTY

Mount Vernon Mills Inc - Arkwright Plant
450 N Street
Spartanburg SC

Inman Mills - Ramey Plant
Hwy 221
Inman SC

Inman Mills - Saybrook Plant
1 First Street
Inman SC

TNS Mills Inc - Spartanburg
400 TNS Rd
Spartanburg SC

UNION COUNTY

Spartan International Rosemont Plant
1088 Gaffney Hwy
Jonesville SC

10 NOTICES

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 August 24, 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) 545-4200.

Affecting Beaufort County

Renovation of an existing space for the addition of a fixed MRI service.
Hilton Head Medical Center and Clinics
Hilton Head Island, South Carolina
Project Cost: 1,857,717

Affecting Edgefield County

Construction and renovation for the addition of thirty-two (32) nursing home beds which do not participate in the medicaid (Title XIX) Program, for a total of 120 nursing home beds, and the addition of two activity rooms, a family room, a larger administrator's office, and two open lobby areas.
Edgefield Health Care Center
Edgefield, South Carolina
Project Cost: 1,159,280

Affecting Lexington County

Addition of five (5) beds to the residential treatment facility for children and adolescents for a total of 59 RTF beds.
New Hope Midlands, Inc.
West Columbia, South Carolina
Project Cost: 7,163

Affecting Richland County

Construction of an imaging center to include a 1.5 T MRI.
Columbia Neurosurgical Associates, P.A.
Columbia, South Carolina
Project Cost: 1,705,000

Affecting Spartanburg County

Renovate and equip an area of the first floor for an 8 bed intensive care unit with no change in the licensed bed capacity.
Spartanburg Regional Medical Center
Spartanburg, South Carolina
Project Cost: 3,153,700

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 August 24, 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, S.C. 29201. For further information call (803) 545-4200.

Affecting Beaufort County

Renovation of an existing space for the addition of a fixed MRI service.
 Hilton Head Medical Center & Clinics
 Hilton Head Island, South Carolina
 Project Cost: 1,857,717

Construction of a freestanding oncology center on the campus of Beaufort Memorial Hospital with one (1) linear accelerator to provide radiation therapy services to inpatients and outpatients.
 Beaufort Memorial Hospital
 Beaufort, South Carolina
 Project Cost: 5,084,058

Affecting Charleston County

Construction of an ambulatory surgery center with (2) operating rooms.
 Health First, LLC
 Charleston, South Carolina
 Project Cost: 1,283,850

Major Renovation and expansion of the hospital to include: upgrade of one CT Scanner and one Linear Accelerator, replacement of one CT Scanner and one Linear Accelerator, and the development of an electrophysiology (EP) lab, with no change in the current licensed bed capacity of the hospital.
 Trident Medical Center
 Charleston, South Carolina
 Project Cost: 59,830,826

Purchase and installation of a 1.5 Tesla Magnetic Resonance Imaging (MRI) scanner at 2851 Tricom Street.
 Tricom Diagnostic Imaging, LLC
 North Charleston, South Carolina
 Project Cost: 1,800,611

Conversion of twenty (20) psychiatric beds to twenty (20) acute care beds for a total of 271 acute care beds and twenty-five (25) nursing home beds.
 Trident Medical Center
 Charleston, South Carolina
 Project Cost: 2,681,640

Affecting Colleton County

Major renovation and expansion of the hospital to include: renovation and expansion of the labor and delivery unit, the emergency department, imaging services, the surgery department, and renovations to the cardiopulmonary and respiratory treatment areas, with no change in the current licensed bed capacity.
 Colleton Medical Center
 Walterboro, South Carolina
 Project cost: \$10,615,560

Affecting Greenville County

Construction of a bed tower addition for 100 acute beds by adding 55 new beds, converting 9 psychiatric beds to acute care and moving 36 beds for a total of 710 acute care, 63 psychiatric, 53 rehab. and 48 nursing home beds.
 Greenville Memorial Hospital
 Greenville, south Carolina
 Project Cost: 16,264,000

12 NOTICES

Affecting Laurens County

Construction of a three story outpatient addition and renovation of the Emergency Department and Operating rooms.
Laurens County Hospital
Clinton, South Carolina
Project Cost: 9,723,459

Affecting Lexington County

Construction of a 44 bed nursing home which will not participate in the Medicaid (Title XIX) Program.
Agape Nursing and Rehabilitation
West Columbia, South Carolina
Project Cost: 1,805,390

Affecting Richland County

Construction of an ambulatory surgery center with five (5) endoscopy rooms restricted to gastroenterology procedures only.
South Carolina Endoscopy center – Northeast
Columbia, South Carolina
Project Cost: 4,276,856

Construction of an imaging center to include a 1.5 T MRI.
Columbia Neurosurgical Associates, P.A.
Northeast Columbia, South Carolina
Project Cost: 1,705,000

Affecting Spartanburg County

Renovation of the 1st floor of the Heart center for an 8-bed medical intensive care unit.
Spartanburg Regional Medical Center
Spartanburg, South Carolina
Project Cost: 3,153,700

Affecting Anderson County

Establishment of an outpatient narcotic treatment program.
Southwest Carolina Treatment Center
Anderson, South Carolina
Project Cost: 377,893

DEPARTMENT OF ARCHIVES AND HISTORY

CHAPTER 12

Statutory Authority: 1976 Code Section 30-1-90(B)

Notice of Drafting:

The Department of Archives and History proposes to amend Regulation 12-500 through 12-512.2 which gives counties the legal authorization to retain and dispose of records common to county offices and functions. Interested persons may submit comments to Richard Harris, Manager of Records Services, South Carolina Department of Archives and History, 8301 Parklane Road, Columbia, SC 29223. To be considered, comments must be received no later than 5:00 p.m. on September 28, 2001, the close of the drafting comment period.

Synopsis:

The general assembly approved Regulation 12-500 through 12-512.2 (General Retention Schedules for County Records) on June 26, 1992. The proposed amendments will simplify the disposition process for county offices and departments; update office/department names and series descriptions; add new series under existing offices/departments; and add new series under new offices/departments.

These proposals will require legislative review.

DEPARTMENT OF ARCHIVES AND HISTORY

CHAPTER 12

Statutory Authority: 1976 Code Section 30-1-90(B)

Notice of Drafting:

The Department of Archives and History proposes to amend three regulations which give state government agencies the legal authorization to retain and dispose of common administrative, personnel and financial records. Interested persons may submit comments to Richard Harris, Manager of Records Services, South Carolina Department of Archives and History, 8301 Parklane Road, Columbia, SC 29223. To be considered, comments must be received no later than 5:00 PM on September 28, 2001, the close of the drafting comment period.

Synopsis:

The General Assembly approved Regulation 12-300 through 12-336 (General Retention Schedule for State Administrative Records) and Regulation 12-400 through 12-423 (General Retention Schedule for Personnel Records) on June 26, 1992. The General Assembly also approved Regulation 12-700 through 12-757 (General Retention Schedule for Financial Records Generated by State Agencies) on June 25, 1993.

The proposed amendments will reflect a change in the department's records policy and disposition procedure. They will also add new sections for records common to most state agencies; amend sections concerning records which require better description and more appropriate retention periods; and repeal sections concerning records which are no longer created.

These proposals will require legislative review.

14 DRAFTING

BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Section 59-5-60

Notice of Drafting:

The State Board of Education proposes to draft amendments to State Board of Education regulations 43-259, Graduation Requirements and 43-300, Accreditation Criteria. Interested persons may submit comments to Dr. Leonard McIntyre, Deputy Superintendent, Division of Professional Development and School Quality, State Department of Education, 1429 Senate Street, Room 1102, Rutledge Building, Columbia, South Carolina 29201.

Synopsis:

State Department of Education staff has met with a number of school district educators. Suggestions have been made regarding possible amendments to the graduation requirements, and accreditation requirements.

Legislative review of this proposal will be required.

COMMISSION ON HIGHER EDUCATION

CHAPTER 62

Statutory Authority: Title 59 1976 Code Section 111-75

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to draft new regulations for the South Carolina National Guard Student Loan Repayment Program established under Section 111-75 Title 59 Act No. 41. Interested persons should submit their comments in writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on September 27, 2001, the close of the drafting comment period.

Synopsis:

In accordance with Section 59-111-75 of the 1976 Code, the Commission on Higher Education, in consultation with the South Carolina Student Loan Corporation, shall develop a loan repayment program for providing incentives for enlisting or remaining for a specified time in both the South Carolina Army and Air National Guards (SCNG) in areas of critical need. The Commission on Higher Education must define areas of critical need annually in consultation with the Adjutant General. The Commission on Higher Education shall promulgate regulations to set forth the terms of the loan repayment program. The regulations must define limitations on monetary repayment amounts, successful participation within 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 participate successfully in the National Guard, noncompliance by a 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 loan program, as implemented under Section 59-111-75, must be administered by a separate student loan provider.

COMMISSION ON HIGHER EDUCATION
CHAPTER 62
 Statutory Authority: Title 59 1976 Code Section 104-20

Notice of Drafting:

The South Carolina Commission on Higher Education proposes to revise existing regulations for the Palmetto Fellows Scholarship Program established under Section 104-20 Title 59 Act No. 458. Interested persons should submit their comments in writing to Dr. Karen Woodfaulk, Director of Student Services, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on September 27, 2001, the close of the drafting comment period.

Synopsis:

In accordance with Section 59-104-20 of the 1976 Code, revisions to the existing regulations for the Palmetto Fellows Scholarship Program are being considered that, beginning with the 2002-03 academic year, all students who meet eligibility requirements are awarded a Palmetto Fellows Scholarship not to exceed twice the amount of the previous year's average cost-of-tuition at the public four-year institutions as determined by the Commission on Higher Education. Regulations include purpose of the Palmetto Fellows Scholarship Program; program funding; program definitions; student eligibility; student application; selection process; policies and procedures for awarding scholarships; duration and renewal of award; transfer of scholarship; students with disabilities; enrollment in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs; enrollment in Doctorate of Pharmacy (Pharm.D.) Program; appeals procedures; institutional disbursement of scholarship awards; award notification; refunds/withdrawals; institutional eligibility; program administration and audits; and suspension or termination of institutional participation.

DEPARTMENT OF REVENUE
CHAPTER 7
 Statutory Authority: 1976 Code Section 12-4-320 and 61-2-60

Notice of Drafting:

The South Carolina Department of Revenue is considering repealing the following alcoholic beverage regulations since they are no longer needed due to changes in the law.

Regulation	Regulation Title
7-4	Reconsideration of Applications
7-19.1	Rehearings, Location of.
7-30	Rehearing, Request for--Location.
7-45	Offers in Compromise Must be in Writing.
7-57	No Reconsideration on an Application Within Two Years Previously Denied as to Person.
7-87	Hearing, After Denial.
7-96	Rehearings, Location of.

16 DRAFTING

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on September 26, 2001.

Synopsis:

The South Carolina Department of Revenue is considering repealing various alcoholic beverage regulations since they are no longer needed due to changes in the law.

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Section 43-1-80

Notice of Drafting:

The South Carolina Department of Social Services is considering revising regulations concerning the Family Independence Program. Interested persons should submit their comments in writing to Ms. Gwen G. Kuhns, Director, Office of Family Independence, South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520. To be considered, comments must be received not later than 5:00 p.m., September 24, 2001.

Synopsis:

The Department of Social Services proposes to develop and amend current regulations in Article 11 for the purpose of setting forth new budgeting procedures that will allow an applicant for the Family Independence Program to be given a deduction for monthly Child Care expenses prior to the determination of eligibility for Family Independence. The areas in which new regulations will be developed or amended include, but are not limited to the following: (a) deduction of Child Care expense prior to determination of gross income eligibility; (b) Child Care deduction timeframes limited to three consecutive months; and (c) standardized Child Care deduction for program simplification and to match Medicaid policy.

Legislative review of these additions and changes will be required.

DEPARTMENT OF SOCIAL SERVICES

CHAPTER 114

Statutory Authority: 1976 Code Section 43-1-80

Notice of Drafting:

The South Carolina Department of Social Services is considering revising regulations concerning the Food Stamp Program. Interested persons should submit their comments in writing to Ms. Gwen G. Kuhns, Director, Office of Family Independence, South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520. To be considered, comments must be received not later than 5:00 p.m., September 24, 2001.

Synopsis:

The South Carolina Department of Social Services proposes to develop and amend Food Stamp regulations for the purpose of setting forth new and clarifying current regulations. The areas in which new regulations will be developed or amended include the following: (a) deletion of the requirement to close the Food Stamp case when a client moves from one county to another county; (b) removal of the requirement to sanction the entire family

when the head of household fails to comply with Food Stamp work requirements; (c) removal of the requirement to disqualify individuals in arrears on court ordered child support; and (d) update of reporting requirements, Food Stamp Outreach activities, and Food Stamp claims, based on Federal Regulations.

Provisions in the United States Code, Title 7, Agriculture, Chapter 51—Food Stamp Program, permit South Carolina to adopt certain options in its administration of the Food Stamp Program. The Department proposes to develop new regulations and amend current regulations that will set forth the following options: (a) categorical eligibility based on participation in TANF funded programs; (b) reporting requirements for earned income households; (c) transitional benefits families leaving TANF; (d) use of Family Independence vehicle policy in Food Stamps; (e) participation in Systematic Alien Verification Entitlement (SAVE) and Income Eligibility Verification System (IEVS); and (f) permit the Department to operate a simplified food stamp program for Family Independence recipients upon the publishing of eligibility criteria in the Food Stamp Policy Manual.

In addition, Federal Regulations allow the State to request waivers to those regulations. The Department proposes the following waivers: (a) waiver of the face-to-face interview requirement at quarterly recertification; (b) to report changes quarterly for fluctuating income households; (c) ABAWD alternatives; (d) use of State ESC data to establish Food Stamp claims; (e) submission of State Corrective Action Plan annually; (f) self-declaration of interest income; and (g) change in reporting requirement for income from private sources from \$25 to \$100.

Legislative review of these additions and changes will be required.

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Document No. 2646

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-30; 47-20-165, 47-20-10 et seq., 1996 Act No. 460

Preamble:

To satisfy the requirements of the 1996 Act No. 460, the Department is proposing to amend R.61-43, *Standards for the Permitting of Agricultural Animal Facilities*. The amendment will: (1) establish a new Part 50 where all definitions are now found; (2) rewrite Part 100 (Swine Facilities) in its entirety which will be the separate and distinct regulation for swine facilities as required by 1996 Act No. 460, which included the Confined Swine Feeding Operations Act; (3) add new requirements to Part 100 which address a new class of large swine facilities; (4) modify Part 200 (Other Animal Facilities) and Part 300 (Innovative and Alternative Technology); (5) add a new section that specifically outlines requirements for manure broker operations, as well as a section that addresses integrator registration, and a section for severability; and (6) incorporate recommendations made by a Regulation Development Committee which was organized to review the regulation for issues and concerns. See Discussion below and Statement of Need and Reasonableness herein. Notices of Drafting for this proposed amendment were published in the State Register on November 26, 1999, July 28, 2000, February 23, 2001, and May 25, 2001.

Discussion of Proposed Revisions:

Issue (1): Establish a new Part 50 where all definitions are now found;

<u>SECTION</u>	<u>CHANGE</u>
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R.61-43.50	Moved all definitions in R.61-43 to new section R.61-43.50. Twenty six (26) new definitions are added in alphabetical/numerical order. Definitions added are for Animal Facility Management Plan, Animal by-product, Average animal live weight, Broker, Commercial Facility, Compost, Composting, Co-permittee, Deemed Permitted Facility, Excessive Mortality, Integrator or Integrating company, Large Animal Facility, Liquid manure, Manure, Manure storage pond, Manure utilization area, Medium Swine Facility, NRCS-CPS, Nuisance, Potable water well, Residence, Seasonal High Water Table, Small Animal Facility, Source Water Protection Area, Swine by-product, and Wastewater.
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R.61-43.50	Added additional wording to the definition of "Expansion" for clarity.
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R.61-43.50	Defined two new size classifications for animal facilities other than swine. 500,000 pounds or less of normal production live weight is a small animal facility and more than 500,000 pounds is a large animal facility.
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R.61-43.50	Altered the definitions for "Small Swine Facility" and "Large Swine Facility" to change the weight classifications for these two categories and added a definition for "Medium Swine Facility." The new normal production live weight (at any one time) categories classify facilities with 500,000 pounds or less as small, facilities with more than 500,000 pounds and less than 1,000,000 pounds as medium, and facilities with 1,000,000 pounds or more as large.
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Issue (2): Rewrite Part 100 (Swine Facilities) in its entirety which will be the separate and distinct regulations for swine facilities as required by the 1996 Act No. 460;

<u>SECTION</u>	<u>CHANGE</u>
R.61-43.100.80	Restructured this section to separate and set out all the siting requirements for small swine, medium swine, and large swine facilities. Added new small swine facility setbacks from waters of the state, and ephemeral and intermittent streams. Added a new setback for small swine facilities must be 1000 feet from a residence. Added a new requirement that does not require the property line setbacks to be met for small and medium swine facilities when the adjacent land: is owned and managed by a professional silviculture operation; is in active agricultural crop production; or is zoned for agricultural land use.

R.61-43.100.90	Changed the requirement that restricted lagoon surface area to four acres to a restriction on volume rather than surface area restriction, and added some new language to deal with appropriate lagoon design and installation. Removed the requirement for medium (old large class) swine facilities that mandated a combination liner of both synthetic and natural materials.
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Issue (3): Add new requirements to Part 100, which address a new class of large swine facilities;

<u>SECTION</u>	<u>CHANGE</u>
R.61-43.100.20	Added a new requirement for swine facilities that are classified as a Large Swine Facility (1,000,000 pounds normal production live weight or more) which states that these facilities must also apply for an individual National Pollutant Discharge Elimination System (NPDES) permit for Confined Animal Feeding Operations (CAFO) in accordance with the provisions of Regulation 61-9.
R.61-43.100.50	Added three new items that must be included in the application package for large swine facilities: Evidence of financial responsibility, Closure Plan, Compliance History Report.
R.61-43.100.60	Added public notice requirements for new class of large swine that include: meeting all the same requirements as for medium swine (old large classification); the applicant must notify all property owners within one mile (instead of one quarter mile required for small and medium swine facilities); the applicant shall conduct a minimum of one public meeting to present to the public the proposed project, its purpose, design, and environmental impacts; the applicant shall provide at least thirty days (30) notice of the meeting date and time by advertisement in a local newspaper of general circulation in the area of the proposed facility; the minutes of the public meeting, proof of advertisement, and opinions derived from the meeting must be submitted to the Department; and the Department shall conduct a public hearing and shall provide notice of the public hearing.
R.61-43.100.80	Added all new setbacks for the new class of large swine facilities as follows: the setback required between a large swine facility, lagoon, treatment system, or manure storage pond and waters of the State (excluding ephemeral and intermittent streams) located down slope from the facility is 2,640 feet (½ mile); if the waters of the State (not including ephemeral and intermittent streams) are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the setback required between a lagoon, treatment system, or manure storage pond and waters of the State is 3,960 feet (¾ mile); the setback required between a large swine facility (including the lagoon, treatment system, and manure storage pond) and real property owned by another person or a residence (excluding the applicant’s residence) is 1,750 feet; and the setback required between a swine facility (including a lagoon, treatment system, or manure storage pond) and a potable water well (excluding the applicant’s well) is 1,750 feet.

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- R.61-43.100.90 Added requirements for new class of large swine: manure treatment/storage structures must be designed for the 50 year - 24 hour storm event and provide at least two (2) feet of freeboard; lagoons and manure storage ponds shall be lined with a geomembrane liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec; large swine facilities are prohibited from utilizing *open* lagoons or manure storage ponds and must be designed with airtight covers; facilities shall utilize new technologies for the manure treatment and storage; air pollution control devices utilizing the best available technology must be installed on all lagoon cover vents and openings to remove ammonia, hydrogen sulfide, methane, formaldehyde, and any other organic and inorganic air pollutants; air pollution control devices must meet all the requirements of the Department and the Bureau of Air Quality, and an appropriate air quality control permit must be obtained; quarterly monitoring of groundwater monitoring wells; and automated lagoon level monitoring devices are required.
- R.61-43.100.100 Added new siting criteria for manure utilization areas associated with large swine facilities: setback from real property owned by another person is 200 feet from the property lines; setback from an occupied residence is 750 feet (excluding the applicant's residence); setback from waters of the State (not including ephemeral and intermittent streams), ditches, and swales is 150 feet; setback from a public and private drinking water well is 200 feet; setback from ephemeral and intermittent streams is 100 feet.
- R.61-43.100.100 For large swine facilities, at least one up-gradient and two down-gradient groundwater monitoring wells shall be installed for each drainage basin intersected by the manure utilization areas.
- R.61-43.100.110 New large swine facilities are prohibited from utilizing spray application systems for manure application. Manure must be incorporated into the manure utilization fields utilizing subsurface injection at a depth of not less than six inches.
- R.61-43.100.190 Added requirement for large swine facilities to have an operator-in-charge that holds a valid certificate of registration issued by the Board of Certification of Environmental Systems Operators in a grade corresponding to the classification of the agricultural wastewater treatment plant supervised by him or her.
- R.61-43.100.200 Added Financial Assurance and Compliance History Requirements for large swine facilities. Must provide the following: Financial Assurance Plan (including 10% initial capital costs for construction, \$100,000 to cover the costs of any fines or penalties, and 100% cost for Closure); Closure Plan (including detailed written estimate of the cost); and Compliance History Report (including complete environmental compliance history disclosure).
- R.61-42.100.210 Added that large swine facilities shall be assessed automatic penalties (up to \$10,000 per day per violation) for the following violations: lagoon, treatment system or manure storage pond breach or loss of containment that is not the direct result of an Act of God; manure utilization area runoff due to improper manure application methods; and discharge to groundwater on site causing groundwater to exceed any water quality standard established in R61-68; (Immediate cessation of manure application will also be enforced on the site). Second occurrence of any of the violations listed above shall result in immediate revocation of the permit and the automatic assessment of appropriate penalties.

Issue (4): Modify Parts 200 (Other Animal Facilities) and Part 300 (Innovative & Alternative Technology);

<u>SECTION</u>	<u>CHANGE</u>
R.61-43.200.50	Altered the requirement for actual manure analysis to be submitted to the Department within 6 months after the start of operation, to allow up to 12 months.
R.61-43.200.70	Added some additional language to address that the Department shall act on all permits to prevent an increase in pollution of the waters and air of the State from any new or enlarged sources.
R.61-43.200.80	Altered the setback distances from property lines to include a setback from the nearest residence of 1000 feet. Also, these property line setbacks are no longer considered minimum setbacks but absolute setbacks. The graduated scale for setbacks was also altered to be consistent with the weights classifying small and large facilities. Added an exemption from setbacks for farm ponds owned by the applicant with no connection to other surface waters.
R.61-43.200.80	Added new Dry Animal manure and other animal by-products Treatment and Storage Facility Siting Requirements. These are the siting requirements for stacking sheds and composters permitted by the Department. These types of structures were not addressed in the existing regulation.
R.61-43.200.180	Large animal facilities will be required to submit an annual report. The Department may require small animal facilities to submit annual reports on a case-by-case basis.
R.61-43.200.190	Added new training requirements to Part 200. All operators of animal facilities and manure utilization areas must attend the training course created by Clemson. Operators of new facilities and large animal facilities must pass a certification exam given by Clemson. Time frames for obtaining the training and/or certification are included in this part.
R.61-43.300.30	Removed the requirement that limits the Department when considering a reduction of requirements only to those not set forth in the Swine Act, since the 1996 Swine Act will be repealed with the passing of these regulations. Added that the setbacks in Part 100 may also be reduced (excluding those for large swine facilities) as the Department determines appropriate when a new or innovative technology is being proposed.
R.61-43.300.40	Added some additional items to the list of alternative technologies; Composting manure solids, Bioreactors, Covered liquid or slurry manure storage, Air Scrubbers, Ozonation, and Alternative Fuels.
R.61-43.300.50	Added a new section to address "Exceptional Quality Compost." Added language to address what requirements must be met in order for compost to qualify as exceptional quality. The Department may allow a marketing proposal with some reductions in manure transfer and land application regulatory requirements, if the compost meets these quality standards.

Issue (5): Add a new section that specifically outlines requirements for manure broker operations, as well as a section that addresses integrator registration, and a section for severability;

<u>SECTION</u>	<u>CHANGE</u>
R61-43.400	Added this new part to outline requirements for manure brokers. Manure brokers are persons who accept manure or dry animal waste from agricultural animal facilities, and then transfer this product to a third party for land application. This Part 400 applies to brokers who operate

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in the State of South Carolina and any out of state broker who moves animal manure or waste into or out of this state.

- R61-43.400.20 Added requirements for the broker to notify the Department in writing and receive written approval, prior to any change in operational procedures.
- R.61-43.400.30 Added a list of other regulations, which may also apply to manure brokers.
- R61-43.400.40 Added a section entitled Permit Application Procedures (Broker Nutrient Management Plan Submission Requirements), which outlines the information required with a permit application. Requirements include: contact information, storage or treatment facility design information (if applicable), general crop management plan, description of services, description of equipment, sample contracts, odor abatement plan, vector abatement plan, soil monitoring plan, and application and operating fees.
- R61-43.400.50 Added requirements for permit issuances, a notice will be published in a local newspaper of general circulation in the area of the broker's base of operations. Appeals are governed by the SC Administrative Procedures Act and the State's Administrative Law Judge Division. Broker Permits must be renewed every five years. The Department will review the broker's records and determine if any "permanent" manure utilization areas need to be added to the Nutrient Management Plan. All persons who "routinely" accept waste from the broker must be added to the Broker's management plan. Added requirements for authorization to operate, certification of construction (if applicable), permit renewal, and permit issue, effective and expiration dates.
- R.61-43.400.60 Added requirements for manure utilization areas covered under the broker's permit. Outlines the constituents that dry waste should be analyzed for. Mortality must be removed from dry waste prior to land application. Includes a list of items that must be included in the manure transfer contract between the broker and the person who accepts or purchases the manure. Added the land application requirements (including proper application methods and setbacks) from Part 200.
- R61-43.400.70 Included requirements that allow the Department to impose additional requirements on a case-by-case after considering the site conditions. Added requirements that deal with animal manure removal restrictions by a manure broker from a quarantined farm, and animal medical waste may not be land applied with animal waste.
- R61-43.400.80 Added odor control requirements for broker manure applications and manure storage facilities operated by brokers.
- R61-43.400.90 Added vector control requirements for broker manure applications and manure storage facilities operated by brokers.
- R61-43.400.100 Added requirements for the broker to keep the following animal manure records for eight years: all completed manure transfer contracts, names and address information for all the producers from whom the broker obtains the waste, the amount of a waste obtained at each facility, sampling results for the waste obtained, and dates of transfer.
- R61-43.400.110 Added requirements for the broker to report to the Department on an annual basis a manure balance sheet which lists all the farms from which manure was purchased or obtained and the amount, and all the farms to which waste was sold or given and the amount.
- R61-43.400.120 Added a requirement for brokers to be certified in the poultry manure operator certification program developed by Clemson.

- R.61-43.400.130 Violations. Same as Part 200 violations.
- R61-43.500.10 Added a new part to address integrators operating in the state. Added language to encourage integrators to be involved with the permitting and compliance of their growers, to assist growers in the disposal of dead animals and the proper utilization of animal manure, and require them to inform each prospective grower that they are required by law in the State of South Carolina to obtain a permit from the Department prior to construction of an agricultural animal facility.
- R61-43.500.20 Added requirements for integrators to submit to the Department a Request for Registration form, as provided by the Department. The integrator must work with the Department to identify growers that are unpermitted. Added language that may allow permittees to qualify to use one analysis for their individual testing requirement, if the growers within a company use the same feed rations and have animal manure analysis that come out to be consistently the same. Added language to allow an integrating company to certify through general feed composition reports that a certain constituent, such as arsenic, is not present in their feed or medications, then the growers that contract with that integrator may be exempt from testing for that constituent.
- R61-43.500.30 Added language that the Department will issue a certificate of integrator registration to integrators or integrating companies that meet all the requirements of this part. All integrators or integrating companies must hold a valid certificate of registration to operate in the state of South Carolina. The certificate may be revoked if the requirements of this part are not met.
- R61-43.500.40 Added language that the Department may establish reporting requirements for integrators. These reporting requirements may include General feed composition reports, and a list of any special treatments or chemicals added to the manure or manure storage structure, that are required by the integrator.
- R61-43.500.50 Added a requirement that an integrator or integrating company must not provide animals to an animal facility that does not hold a valid agricultural permit from the Department. The integrator must take reasonable steps to insure that the animal facilities that are under contract with the company are in compliance with their permit to include notifying growers of their responsibility to update their Animal Facility Management Plan and permit if changes are made in the operation of the farm, and providing information on technical assistance to its growers on compliance and assist the producers in selecting a corrective action. Added co-permitting requirement for an integrator or integrating company that contracts with a producer that utilizes a liquid manure handling system and confines 1,000,000 pounds or more of normal production live weight at any one time shall be a co-permittee with the producer.
- R.61-43.500.60 Violations. Same as Part 200 violations.
- R.61-43.600 Added new part to address severability. Should a section, paragraph, sentence, clause, phrase, or other part of this regulation be declared invalid for any reason, the remainder shall not be affected.
- Issue (6): Incorporate recommendations made by a Regulation Development Committee, which was organized to review the regulation for issues and concerns.**

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<u>SECTION</u>	<u>CHANGE</u>
R.61-43	Replaced the word “waste” with the word “manure” or “manure and other animal by-products”. Replaced the phrase “Waste Management Plan” with “Animal Facility Management Plan”. Replaced the phrase “use or disposal” with “utilization” in areas where appropriate.
R.61-43	Added some additional wording throughout the regulation for clarity.
R.61-43.100.10,200.10	Restructured this section to organize it into 4 subsections: Purpose; Applicability; Inactive Facilities; and Facilities Permitted Prior to the Effective Date of Regulation. Moved some of the existing requirements to organize into the new subsection to address Inactive Facilities.
R.61-43.100.10,200.10	Added new requirement that facilities that were “Deemed Permitted” by the 1998 regulations do not have to apply for a permit under these regulations, but these facilities must meet parts of this regulation as specified in this section. The only requirements omitted from this listing were requirements, which deal with new construction, siting criteria, and design criteria.
R.61-43.100.10,200.10	Added provisions for permitting facilities that were constructed and placed into operation prior to 1996, but have never received an agricultural permit from the Department.
R.61-43.100.10,200.10	Added the requirement that an existing facility permitted prior to July 1996 may be required to obtain an updated Animal Facility Management Plan on a case-by-case basis by the Department.
R.61-43.100.10,200.10	Added new requirement that existing small or medium swine facilities that propose to expand or increase animal numbers such that they are in a new facility size class, the facility will be required to meet all the requirements for that size facility.
R.61-43.100.20,200.20	Added statement for clarity that permits issued under this regulation are no-discharge permits. Added requirement that some permit modifications may require the permittee to obtain new written waivers for setback reductions.
R.61-43.100.30,200.30	Changed the poundage based exemptions to refer to swine and other animal facilities that do not have a lagoon or waste storage pond or liquid manure treatment system, to comply with the Pollution Control Act. Added an exemption for facilities that do not produce swine or other animals commercially. Added some new language to allow replacement in kind of permitted facilities due to damage. Added some additional language to clarify the ranged facility exemption.
R.61-43100.40,200.40	Added the following regulation to the list entitled “Relationship to other regulations”: Regulation 61-68, Water Classifications and Standards.
R.61-43.100.50,200.50	Added some new language to address Preliminary Site Evaluations and verifying land use and local zoning in the area of the proposed facility. Added specific criteria for what information must be included in the land application agreement between the permittee and a person who accepts manure from the facility.

- R.61-43.100.50,200.50 Moved the specific odor abatement plan requirements to Part 100.150 and 200.150 “Odor Control Requirements.” Moved the specific vector abatement plan requirements to the NEW Part 100.160 and 200.160 “Vector Control Requirements.” Moved the incinerator permitting exemption requirements to 100.130 and 200.130 “Dead Animal Disposal Requirements.” Moved the specific soil monitoring requirements to part 100.100 and 200.100 “Manure Utilization Area Requirements.” Moved wording to specify the notification requirements to the NEW Section 100.60 and 200.60 “Public Notice Requirements.”
- R61-43.100.60,200.60 Changed the notification radius from “1000 feet from the facility’s property line” to “1/4 mile (1320 feet) from the proposed facility’s footprint of construction.” Also, added the requirement for the Department to post up to four notices. Added language to address notification of multiple heirs or owners of a property, comments received by E-mail, notifications of permit decisions to groups and persons signing petitions, notification requirements for expansions of existing facilities, and for permit denials. Added the specific information that the Department will provide in a public notice.
- R.61-43.100.70,200.70 Added new language to address the Department’s involvement in zoning and land use planning. Moved list of factors from Parts 100.80 and 200.80 to 100.70 and 200.70 that the Department considers when determining if the minimum setbacks should be increased. Added new language to address construction expiration dates, final permit expiration dates, renewals, and extensions.
- R61-43.100.80,200.80 Altered the minimum setback requirement for wells, serving humans or animals, to be consistent with Regulation 61-71, Well Standards. Added some new language that will allow the setbacks required from ephemeral and intermittent streams to be reduced by the Department, if a permanent vegetative buffer that meets NRCS standards at a minimum is installed and maintained. Altered the requirements to no longer allow any new animal facility or an expansion of an established animal facility to be located in the 100-year floodplain. Specified that the setbacks from waters, streams, and ditches apply to those located down slope from the facility. Excluded ditches that were constructed and installed around the facility site in order to drain rainwater away from the buildings appropriately (this rain water does not come into contact with animals or manure). Specified that all lagoon and manure storage pond setbacks contained in this part shall be measured from the outside toe of the dike.
- R.61-43.100.90,200.90 Added new language to deal with appropriate lagoon design and installation. Added specific language to the lagoon design criteria and increased the freeboard requirement from one foot to one and one-half foot. Altered the lagoon liner design criteria to be based upon initial specific discharge rather than permeability rate, and added a standard reference for design and installation of geomembrane liners. Added some of the standard special conditions utilized in permits to the regulation that deal with fences, warning signs, vegetation on dikes, and animal grazing around lagoons.
- R61-43.100.100,200.100 Added the requirement that manure application shall not exceed the agronomic rate of application for plant available nitrogen (PAN) for the intended crop(s) on an annual basis. For those years that fertilizer is land applied, manures in combination with the fertilizer shall not exceed the agronomic rate of nutrient utilization of the intended crop(s).
- R61-43.100.100,200.100 The deep soil sampling requirement depths were changed from four feet to eighteen inches in order to simplify sampling. Added specific determinations for amounts (more

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than 12 tons/recipient/year) of manure transferred to another party that must be a part of the Animal Facility Management Plan. Added some of the standard special conditions utilized in permits to the regulation that deal with timing of manure applications, nuisance complaints, manure application areas located in the floodplain, manure storage, and manure contract disposal with a licensed broker. Added that the Department may require periodic monitoring of any wet weather ditches or perennial streams which are in close proximity to any manure utilization areas.

- R.61-43.100.100,200.100 Altered the setback for manure utilization areas from property lines. The setback will no longer be 200 feet from the property line, but 300 feet from residences. Also, added a setback waiver for those permittees utilizing subsurface injection systems.
- R61-43.100.110,200.110 Added new language to address adverse groundwater impact and drift of manure from spray application systems.
- R61-43.100.130,200.130 Requires permittees to address excessive mortality situations in the dead animal disposal plan. Added some additional requirements for dead animal burial to allow for a comprehensive geologic review. Removed requirement that composters must be designed to NRCS standards, in order to allow for private engineers to submit alternative composter designs for review and consideration.
- R61-43.100.140,200.140 Added language that addresses when the Department may require additional or more stringent requirements: source water protection; 303(d) impaired water bodies list; proximity to Outstanding Resource Waters, trout waters, shellfish waters, or critical habitat waters; and Aquifer Vulnerability Area. Added a new requirement that permittees must notify the Department when they have a discharge from the facility. Added several standard special conditions in permits that deal with corrective action for nuisances, all-weather access roads, and transporting manure.
- R61-43.100.150,200.150 Added a list of specific actions for “methods in handling and storage of odorous materials that minimize emissions.” Added a list of specific actions for “prescribed standards in the maintenance of premises to reduce odorous emissions.”
- R61-43.100.160,200.160 Added a new section to the regulation to address Vector Control Requirements. This section outlines the requirements for a vector abatement plan, and gives some corrective actions that the Department may require in the event of a problem.
- R61-43.100.170,200.170 Added wording to address record keeping for deemed permitted facilities.
- R61-43.100.180,200.180 Specified that all large swine and large animal operations shall submit annual reports, on a form approved by the Department. Other facilities may be required to submit annual reports, on a case-by-case basis.
- R61-43.100.180,200.180 Added that the Department may establish permit conditions to require a facility to complete and submit a comprehensive report every five years. The Department shall review this report to confirm that the permitted nutrient application rates have not been exceeded. Based on the results of the review, additional soil and/or groundwater monitoring requirements permit modification, and/or corrective action may be required.
- R61-43.100.190,200.190 Specified that all new and existing facilities must have operators who have attended the training course by Clemson. Medium and large facilities must have operators that completed the training program and passed the certification exam. Added some time frames for obtaining training and/or certification.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites members of the public and regulated community to attend a staff-conducted informational forum to be held on September 24, 2001, at 2:00 p.m. in Peoples Auditorium, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The purpose of this forum is to answer questions, clarify issues and receive comments from interested persons on the proposed amendment of R.61-43. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for public hearing scheduled for November 8, 2001, as noticed below.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment by writing to Joy Shealy at Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; Fax (803) 898-4095; Comments may also be sent by E-mail to agcomments@columb32.dhec.state.sc.us. Additionally, the Department is asking the public to provide specific comments on: (a) changing the maximum four acre swine lagoon size restriction to a volume restriction of 1,000,0000 cubic feet; (b) when a closed facility's permit should be considered invalid; (c) phasing out lagoons at existing agricultural facilities (swine and other animal facilities); and (d) adding more specific restrictions on manure utilization areas based on depth to seasonal high water table. All comments must be received no later than 5:00 p.m. on September 24, 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 below.

Copies of the text of the proposed amendment for public notice and comment may be obtained by contacting Joy Shealy at the Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; Telephone number (803) 898-4030; Fax number (803) 898-4095; E-mail agcomments@columb32.dhec.state.sc.us.

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 of R.61-43 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 8, 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 in the order presented on its agenda. The agenda is published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment of R.61-43 by writing to Joy Shealy at the Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; Fax (803) 898-4095; E-mail agcomments@columb32.dhec.state.sc.us. Written comments must be received no later than 5:00 p.m. on September 24, 2001. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on November 8, 2001, as noticed above. Comments received shall be submitted in a Summary of Public Comments and Department Responses for the Board's consideration at the public hearing noticed above.

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

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Preliminary Fiscal Impact Statement:

Staff anticipates no additional financial impacts upon local governments. Additional costs to State government (the Department), are not anticipated beyond the fees allowed for under the Act, which will be administered under the Environmental Protection Fund Act. See Statement of Need and Reasonableness below.

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:

Purpose of Regulation:

Amendment of R.61-43 will satisfy the requirements of the 1996 Act No. 460. The amendment will: (1) establish a new Part 50 where all definitions are now found; (2) rewrite Part 100 (Swine Facilities) in its entirety which will be the separate and distinct regulation for swine facilities as required by the 1996 Act No. 460; (3) add new requirements to Part 100 which address a new class of large swine facilities; (4) modify Part 200 (Other Animal Facilities) and Part 300 (Innovative and Alternative Technology); (5) add a new section that specifically outlines requirements for manure broker operations, as well as a section that addresses integrator registration, and a section for severability; and (6) incorporate recommendations made by a Regulation Development Committee which was organized to review the regulation for issues and concerns.

Legal Authority: The Standards for the Permitting of Agricultural Animal Facilities are authorized by S.C. Code Section 48-1-10 et seq. and the 1996 Act No. 460.

Plan for Implementation: The proposed amendments will make changes to and be incorporated into R.61-43 upon approval of both the Board of Health and Environmental Control (Board) and the General Assembly and publication in the State Register. The proposed amendments will be implemented in the same manner in which the existing regulations are implemented.

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

In July 1996, the 1996 Act No. 460 which included the Confined Swine Feeding Operations Act became effective. In this act, the S.C. Department of Health and Environmental Control was directed to promulgate regulations for swine facilities. The Department promulgated Regulation 61-43, Standards for the Permitting of Agricultural Animal Facilities, which addresses swine facilities, other animal facilities and Innovative and Alternative Technologies. Regulation 61-43 became effective on June 26, 1998. The 1996 Act No. 460 also directed the Department to promulgate separate and distinct regulations after the initial regulation was promulgated and implemented. During the Spring of 2000, the Department organized a Regulation Development Committee to assist in the review of the current regulations and development of a separate and distinct regulation. The following agencies, organizations and governing bodies were represented on this committee:

South Carolina Department of Health and Environmental Control
South Carolina Section of the Sierra Club
South Carolina Coastal Conservation League
South Carolina Senate
South Carolina House of Representatives

South Carolina Farm Bureau Federation
South Carolina Pork Board
South Carolina Poultry Federation
South Carolina Dairy Association
South Carolina Cattlemen Association
South Carolina AgFirst Farm Credit Agencies
Clemson University Agricultural Extension Service
United States Department of Agriculture Natural Resources Conservation Service

The proposed amendments incorporate recommendations made by the Regulation Development Committee, which are part of a comprehensive strategy to further reduce the potential of animal feeding operations to impact the environment and the waters of the state.

The proposed amendments also include new requirements that have been added to Part 100 of the regulation that address a new class of large swine facilities. The Board directed Department staff to analyze the issues associated with large swine facilities in a motion it passed on May 10, 2001. Department staff conducted two public listening sessions in order to receive comments and input from the public on how South Carolina should regulate large swine facilities beyond the requirements already established in Regulation 61-43. Department staff considered each comment in the formulation of these new requirements for large swine facilities included in the proposed amendment.

Other changes to the regulation involve some changes in terminology that reflect changes in the animal industry and modifications necessary to correct several mistakes in the previous regulation.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional cost to the state or its political subdivisions. The agricultural animal facilities in the state are already meeting most of the requirements in these regulations. Some existing facilities will incur additional costs due to monitoring requirements. The new requirements that may affect the existing regulated community are relatively inexpensive. For example, soil sampling and manure sampling will be required for all permittees, and the cost is approximately \$5 per sample. New or expanding large swine facilities proposed in the State will incur significant additional costs in order to comply with the new technology and financial assurance requirements included in the proposed amendment of this regulation.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The preventative measures and setbacks in the regulations will reduce the potential for animal waste to come into contact with the environment in a negative fashion. This regulation will also protect public health through the protection of waters of the State, including groundwater.

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

The proposed revisions are necessary to protect public health and the environment, and to address additional impacts that the changing animal industries pose to the State. Without these amendments, there will be an adverse effect on the Department's ability to carry out its strategy to further reduce the potential of animal feeding operations to impact public health, the environment, and waters of the state.

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Text:

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

Document No. 2648
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

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

Regulation 61-62, *Air Pollution Control Regulations and Standards*, and the South Carolina State Implementation Plan

Preamble:

The United States Environmental Protection Agency (EPA) promulgated several amendments to 40 CFR Parts 60, 63, and 68 during the past few years. Recent amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPs), and Chemical Accident Prevention. These rules and other amendments were published prior to January 1, 2001. Pursuant to SC Code Section 48-1-10 *et seq.*, the South Carolina Department of Health and Environmental Control (Department) is proposing to amend Regulation 61-62, *Air Pollution Control Regulations and Standards*, to incorporate these amendments. The Department is also making corrections and clarifications to the existing regulations to improve ease of use of the regulations by the regulated community. In addition, the Department proposes to amend 61-62.5, Standard 7, *Prevention of Significant Deterioration*, and the South Carolina State Implementation Plan (SIP), to maintain conformity with Federal requirements pursuant to 40 CFR Parts 51 and 52 and ensure compliance with Federal standards.

Two Notices of Drafting to amend the Regulation were published in the *South Carolina State Register* on November 24 and December 22, 2000. Since this amendment is consistent with Federal law, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

Discussion of Proposed Revisions:

Changes were made to conform R.61-62 with federal amendments of the Code of Federal Regulations as of January 1, 2001.

SECTION CITATION

EXPLANATION OF CHANGE

61-62.1 Section I, Definition 94	Volatile Organic Compound needs to be revised to include volatile methyl siloxanes
61-62.1 Section II.B(1)	Clarifies when written request for an operating permit is due
61-62.3, Section I, Numbers 2,3, 4	Correct typographical errors
61-62.5, Standard 1, Section I.A	Clarifies opacity requirements for existing sources
61-62.5, Standard 1, Section I.B	Clarifies opacity requirements for new sources

61-62.5, Standard 4, Section V	Correct column heading for production rate to eliminate “it”
61-62.5, Standard 4, Section VIII	Correct “Other Manufacturing” - Table B heading
61-62.5, Standard 4, Section XI	Update reference to Clean Air Act
61-62.5, Standard 5, Section I.A	Correct definition of “petroleum liquids”
61-62.5, Standard 5, Section I.C	Update reference to Clean Air Act
61-62.5, Standard 5, Section I.D	Correct typographical error
61-62.5, Standard 5, Section I.E(1)	Correct typographical error
61-62.5, Standard 5, Section I.F(3)	Correct spelling error
61-62.5, Standard 5, Section II.A(2)	Correct language for clarity
61-62.5, Standard 5, Section II.F(2)	Add degree symbol
61-62.5, Standard 5, Section II.N(4)	Delete the word “was”
61-62.5 Standard 6, Title	Correct typographical error
61-62.5, Standard 6, Section IV.A.2	Correct typographical error
61-62.5, Standard 7	Replace entire regulation to incorporate Federal amendments
61-62.5, Standard 8, Section II.E	Correct typographical errors in pollutant list
61-62.5, Standard 8, Section I.D	Add entire footnote to paragraphs (2) and (3)
61-62.5, Standard 8, Section II.E	Correct misspelling of “2-Acetylaminofluorine” and add footnote designation (FN*)
61-62.60, Subpart A	Subpart is amended
61-62.60, Subpart Cb	Subpart is added and incorporated by reference
61-62.60, Subparts D through Eb	Subparts are amended
61-62.60, Subpart Ec	Subpart is added and incorporated by reference
61-62.60, Subparts F, H, J, K, Ka, Kb, L, M, N, Na, O, P, S, T, U, V, W, X, Y, Z, AA, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, BBB, DDD, FFF, GGG, HHH, III, JJJ, KKK, LLL, NNN, PPP, QQQ, RRR, SSS, TTT, UUU, WWW	Subparts are amended

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61-62.60, Subparts AAA and OOO	Subparts are added and incorporated by reference
61-62.63	Table of Contents is eliminated
61-62.63, Subparts A, OOO, RRR	Subparts are added and incorporated by reference
61-62.63, Subparts F, G, H, L, M, N, O, S, T, U, W, X, CC, GG, II, YY, EEE, GGG, JJJ, and PPP	Subparts are amended
R.61-62.68.3	Change CFR reference in first paragraph
R.61-62.68.3	Add definition of retail facility in the new law
R.61-62.68.58(a)	Clarifies sentence
R.61-62.68.79(a)	Clarifies sentence
R.61-62.68.126	Add section to create an exclusion for regulated flammable substances used as fuel or held for sale as fuel at retail facilities
R.61-62.68.130	Add footnotes to Tables 3 and 4 to remind reader of the exclusion for regulated flammable substances
61-62.70.2	Add quotation mark in front of “ non major source”
61-62.70.5(a)(2)(iv)(A)(2)	Correct the spelling of “addresses” to “addressed”
61-62.70.7(e)(6)(v)	Correct capitalization of “title IV”
61-62.70.9(b)(2)(v)(B)	Correct capitalization of “title IV”
61-62.70.7(f)(1)(i)	Correct “§§ 70.7(c) (1)(ii)” to “§ 70.7(c)(1)(ii)”
61-62.70.9(b)(2)(ii)(A)	Add section (§) mark

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on September 24, 2001, at 10:00 a.m. in room 2280 at the Department of Health and Environmental Control at 2600 Bull Street, Columbia, SC. The purpose of the forum is to receive comments from interested persons on the proposed regulation.

Interested persons are also provided an opportunity to submit written comments to Julie Seel at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on September 24, 2001. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Julie Seel at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-3256.

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 comment 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 October 11, 2001. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. 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 hearings will be noted 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 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 comments on the proposed amendments to Julie Seel at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, Regulatory Development Section, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-3256. To be considered, comments must be received no later than 5:00 p.m. on September 24, 2001. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on October 11, 2001, as noticed above. Comments received shall be submitted to the Board in a Summary of Public comments and Department Responses.

Statement of Need and Reasonableness:

This 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: Amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*.

Purpose: These amendments and corrections will maintain conformity with federal requirements and ensure compliance with federal standards.

Legal Authority: The legal authority for Regulation 61-62, *Air Pollution Control Regulations and Standards*, is S.C. Code Section 48-1-10 *et seq.*

Plan for Implementation: The proposed amendments will take effect upon approval and adoption by the South Carolina Board of Health and Environmental Control and publication in the *South Carolina State Register*.

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

The United States Environmental Protection Agency (EPA) promulgated several amendments to 40 CFR Parts 60, 63, and 68 during the past few years. Recent amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPs), and Chemical Accident Prevention. These rules and other amendments were published prior to January 1, 2001. Pursuant to SC Code Section 48-1-10 *et seq.*, the South Carolina Department of Health and Environmental Control (Department) is proposing to amend Regulation 61-62, *Air Pollution Control Regulations and Standards*, to incorporate these amendments. The Department is also making corrections and clarifications to the existing regulations to improve ease of use of the regulations by the regulated community. In addition, the Department proposes to amend 61-62.5, Standard 7, *Prevention of Significant*

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Deterioration, and the South Carolina State Implementation Plan (SIP), to maintain conformity with Federal requirements pursuant to 40 CFR Parts 51 and 52 and ensure compliance with Federal standards. A summary of the proposed revisions is submitted as Attachment B.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions nor will the amendments result in any increased cost to the regulated community. The standards to be adopted are already effective and applicable to the regulated community as a matter of Federal law. The proposed amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

EPA has provided the estimated costs and benefits for these standards in the *Federal Register* notices that are cited within this document.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*, will provide continued protection of the environment and public health by adopting the recent changes in Federal law.

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

The State's authority to implement Federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments are not adopted in South Carolina.

Text:

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

Document No.2643

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: Section 38-33-10 *et seq.*, South Carolina Code of Laws, 1976

R.61-10, *Operation of Health Maintenance Organizations*

Preamble:

Pursuant to Section 38-33-10 *et seq.* of the S.C. Code of Laws and 25A Regs. 69-22, licensing and supervision of Health Maintenance Organizations have been transferred to the South Carolina Department of Insurance. Since DHEC no longer has any role regarding Health Maintenance Organizations, the Department is repealing R.61-10.

A Notice of Drafting for this proposed repeal of regulation was published in the *State Register* on June 22, 2001.

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

Interested members of the public and regulated community are invited to make oral or written comments regarding the proposed regulation for repeal at a Public Hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled Board meeting on October 11, 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, S.C. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The agenda is published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments to the forum by writing to Jerry L. Paul, Director, Division of Health Licensing, DHEC, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments for the forum and comment period must be received no later than 4:00 p.m. on September 24, 2001.

Preliminary Fiscal Impact Statement:

There will be no cost to the State and its political subdivisions. See Statement of Need and Reasonableness below.

Statement of Need and Reasonableness:

The Statement of Need and Reasonableness for proposed repeal of Regulation 61-10 was determined by staff analysis pursuant to S.C. Code Sections 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R.61-10, *Operation of Health Maintenance Organizations*.

Purpose: This action will repeal R.61-10 from Chapter 61 regulations. See Determination of Need and Reasonableness below.

Legal Authority: S.C. Code of Laws Section 38-33-10, *et seq.*

Plan for Implementation: None

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

Pursuant to Section 38-33-10, *et seq.* of the S.C. Code of Laws and 25A Regs. 69-22, licensing and supervision of Health Maintenance Organizations have been transferred to the South Carolina Department of Insurance. Since DHEC no longer has any role regarding Health Maintenance Organizations, the repeal of R.61-10 is appropriate.

DETERMINATION OF COSTS AND BENEFITS: Cost: Not applicable. There will be no fiscal or economic impact on the State, its political subdivisions, or the regulated community by the repeal of R.61-10. Benefit: None.

UNCERTAINTIES OF ESTIMATES: None. The repeal of R. 61-10 will not create a burden for the public, the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: None.

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DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION AMENDMENT IS NOT IMPLEMENTED: None.

Text:

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

Document No. 2645

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 44-55-2310 et seq.

R.61-51. Public Swimming Pools.

Preamble:

The Department is proposing amendment of R.61-51 to clarify existing requirements for public swimming pools and outline technical elements in a clear concise manner, to better ensure the safe operation of all public swimming pools, spas and water parks, and enhance understanding of and compliance with the swimming pool regulation. See Discussion below and Statement of Need and Reasonableness herein.

Discussion of Proposed Revisions:

Due to numerous revisions and changes in outline form, R.61-51 is being replaced in entirety.

<u>SECTION</u>	<u>REVISION</u>
R.61-51(A)	Item numbers changed due to definition additions.
R.61-51(A)(1)	Clarifies definition for alteration.
R.61-51(A)(2)	Adds new definition for the abbreviation ASSE.
R.61-51(A)(3)	Adds new definition for the term attendant.
R.61-51(A)(5)	Certified Pool Operator language corrected.
R.61-51(A)(6)	Adds new definition for the term change order.
R.61-51(A)(7)	Adds new definition for the term competition pool.
R.61-51(A)(8)	The term twelve added for consistency.
R.61-51(A)(9)	Adds new definition for the term contiguous.
R.61-51(A)(13)	Adds new definition for the term elevated structure.
R.61-51(A)(18)	Clarifies items that must be included in the first aid kit.
R.61-51(A)(20)	Adds new definition for the abbreviation gpm.

- R.61-51(A)(21) Adds new definition for hand feeding.
- R.61-51(A)(26) Allows for Department approval of Lifeguard Certification organizations.
- R.61-51(A)(28) Clarifies definition for life saving equipment
- R.61-51(A)(29) Adds new definition for the main body of the pool.
- R.61-51(A)(30) Clarifies definition for main drain.
- R.61-51(A)(35) Adds new definition for the term non slip.
- R.61-51(A)(36) Adds new definition for the term obstruction.
- R.61-51(A)(38) Clarifies and adds new definition for the term owner.
- R.61-51(A)(39) Adds new definition for the term pool area.
- R.61-51(A)(42) Adds new definition for the term portable kiddie slide.
- R.61-51(A)(43) Clarifies the definition for the term public swimming pool.
- R.61-51(A)(43)(c) Expands definition for Type “C” pools.
- R.61-51(A)(43)(d) Clarifies definition and applicability of the term Type “D” pools.
- R.61-51(A)(44) Clarifies definition for the term recirculation piping.
- R.61-51(A)(47) Clarifies definition and applicability of term residential swimming pool.
- R.61-51(A)(48) Clarifies definition for return inlets.
- R.61-51(A)(50) Adds new definition for the term shallow end of pool.
- R.61-51(A)(51) Clarifies definition for spray pool.
- R.61-51(A)(55) Adds new definition for the term technical assistance visit.
- R.61-51(A)(56) Clarifies the definition for transition point.
- R.61-51(A)(61) Replaces the term “recreational water facility” with “pool” for consistency.
- R.61-51(A)(63) Adds new definition for the term zero depth entry pool.
- R.61-51(B)(3)(a) Adds requirement to provide contractors license number, project cost, and owners signature to construction application information.
- R.61-51(B)(4)(e)(i) Adds requirement to include a location map.
- R.61-51(B)(4)(e)(ii) Adds requirement for an outlined block.
- R.61-51(B)(4)(i) Adds requirement to provide quantity of lighting.

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- R.61-51(B)(4)(k) Adds requirement to provide size of chemical storage, equipment room, and exhaust fans on plans.
- R.61-51(B)(5) Clarifies the process for design/equipment changes.
- R.61-51(B)(6) Adds reference for pressure testing requirement.
- R.61-51(B)(7) Adds new language to require letter from project engineer or architect and requires a contractor's and owner's representative be present at the final inspection.
- R.61-51(B)(8) Replaces fee amounts with reference to R.61-30, *Environmental Protection Fees*.
- R.61-51(B)(9) Adds title and new language to clarify the process for repeat inspections.
- R.61-51(B)(10) Adds language to require new construction and alterations be performed by a construction contractor.
- R.61-51(C)(1) Clarifies applicability.
- R.61-51(C)(2), Changes spelling of bath house for consistency, adds the word supplied.
- R.61-51(C)(2)(a) Clarifies language for fillspouts.
- R.61-51(C)(2) Clarifies language for hose bibb protection and adds language for kiddie pools.
- R.61-51(C)(4) Adds new language to specify shatter resistant doors or windows in or adjacent to the pool area.
- R.61-51(C)(5)(b) Clarifies specifications for pool finish.
- R.61-51(C)(5)(c) Depth marker language moved to (C)(7).
- R.61-51(C)(6)(a)(ii) Clarifies language used.
- R.61-51(C)(6)(d) Language moved from (D)(2)(f).
- R.61-51(C)(6)(f) Clarifies required backflow prevention device.
- R.61-51(C)(6)(i) Adds language for temporary pool enclosures.
- R.61-51(C)(6)(j) Adds language for obstruction of minimum deck widths and glass furniture.
- R.61-51(C)(7) Clarifies requirements for depth markers, adds language for no-diving tiles, metric tiles, and depth markers for bowl shaped pools.
- R.61-51(C)(8)(b) Clarifies that courtyard fencing may not satisfy pool fencing requirements.
- R.61-51(C)(9) Clarifies requirements for equipment rooms.
- R.61-51(C)(10) Clarifies requirements for chemical storage rooms

- R.61-51(C)(11) Requires all public pools have a drinking fountain with appropriate wiring.
- R.61-51(C)(12) Clarifies placement of the emergency telephone.
- R.61-51(C)(13)(b) Clarifies backflow prevention device requirements.
- R.61-51(C)(14) Requires minimum toilet facilities at all pool types, clarifies distance of minimum toilet facilities.
- R.61-51(C)(16) Adds language for filter backwash disposal.
- R.61-51(C)(17) Adds language to include method and location of pool drainage on project plans.
- R.61-51(C)(18-37) Item numbers changed due to re-numbering.
- R.61-51(C)(19) Adds language to include heater design and thermostat cut-off.
- R.61-51(C)(20) Requires device to regulate rate of flow on pump discharge piping.
- R.61-51(C)(21) Clarifies chemical feed pump requirements.
- R.61-51(C)(22) Requires separate recirculation systems for indoor and outdoor sections of indoor-outdoor pools.
- R.61-51(C)(24)(c) Requires schedule 40 or higher grade if PVC piping is used.
- R.61-51(C)(24)(d) Clarifies pressure testing procedure and piping requirements.
- R.61-51(C)(25)(a) Adds new language and clarifies inlet flow.
- R.61-51(C)(26)(a)(i) Clarifies pool surge capacity.
- R.61-51(C)(26)(b) Requires skimmers be NSF listed.
- R.61-51(C)(26)(b)(iii) Requires extra skimmer basket for each pool.
- R.61-51(C)(27)(b) Language changed from one to at least one.
- R.61-51(C)(27)(c) Language changed from one to at least one.
- R.61-51(C)(28) Roman numerals changed to reflect changes in sign.
- R.61-51(C)(28)(a)(v) Communicable disease replaced by diarrheal illness or nausea.
- R.61-51(C)(28)(a)(vi) Nasal infection replaced by respiratory infection.
- R.61-51(C)(28)(a)(vii) Language added to address open lesions or wounds.
- R.61-51(C)(28)(a)(viii-xv) Item letters changed due to addition of rule.
- R.61-51(C)(28)(b) Clarifies that no diving sign shall be in all capitalized letters.
- R.61-51(C)(28)(c) Adds language for no lifeguard on duty signs.

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R.61-51(C)(28)(d)	Item letter changed due to item addition.
R.61-51(C)(28)(e)	Adds language to require CPO name and number be posted on pool rules or separate sign.
R.61-51(C)(29)(a-b)	Clarifies requirements for main drains.
R.61-51(C)(31)(a)	Adds language to include fiberoptic lighting and colored lights.
R.61-51(C)(31)(b)	Lowers requirements for deck lighting.
R.61-51(C)(31)(c)(i)	Revises language regarding supply conductors and pool placement.
R.61-51(C)(31)(d)	Language added to include electric drinking water fountains.
R.61-51(C)(35)	Clarifies language for steps and ladders requirements.
R.61-51(C)(37)	Bridge language moved and clarified.
R.61-51(C)(38)	Adds language addressing portable kiddie slides.
R.61-51(D-H)	Quotations added to pool type for consistency.
R.61-51(D)(2)	Divides existing language into separate paragraphs to reduce confusion.
R.61-51(D)(2)(a)	Adds language to identify how slope will be measured.
R.61-51(D)(2)(b)	Title added for consistency.
R.61-51(D)(2)(c)	Title added and language clarified.
R.61-51(D)(2)(d)	Adds new language to include Zero Depth pools.
R.61-51(D)(2)(e)	Item letter changed due to re-numbering, title added, references corrected.
R.61-51(D)(2)(f)	Item letter changed due to re-numbering, title added.
R.61-51(D)(2)(g)	Item letter changed due to re-numbering, title added, language pertaining to seats deleted.
R.61-51(D)(2)(h)	Language pertaining to seats combined to form one paragraph.
R.61-51(D)(2)(i)	Item letter changed due to re-numbering.
R.61-51(D)(2)(j)	Item letter changed due to re-numbering. Clarifies construction tolerances.
R.61-51 (Depth chart footnote)	Language added for shallower depths.
R.61-51(D)(3)	Title changed to include stands. Requires diving stands at pools with racing lanes be of the removable type.

R.61-51(D)(4)(b)	The term one hundred added for consistency.
R.61-51(E)(2)	Language added for floor equalizers, clarifies perimeter depth.
R.61-51(E)(4)	The term one hundred added for consistency.
R.61-51(E)(7)	Corrects reference to another section.
R.61-51(E)(8)	Adds language for kiddie pool fill line.
R.61-51(E)(9)	Adds language to require automatic controllers on new Type “C” pools.
R.61-51(F)(2)	Adds language for drains supplying booster system and emergency cut off switch and corrects references to other areas of the Regulation.
R.61-51(F)(3)(b)	The term one hundred added for consistency.
R.61-51(F)(5)	Lowers thermostat cut-off from 110 to 104 degrees Fahrenheit.
R.61-51(F)(6)	Replaces “spas” with “Type “D” pools”.
R.61-51(G)(3)(b)	Deletes language pertaining to natural water.
R.61-51(G)(3)(e)(ii)	Adds language for night use.
R.61-51(G)(7)	Adds language to require automatic controllers on new Type “E” pools of 1,500 gallons or less.
R.61-51(G)(8)	No change in text. Item number changed due to re-numbering.
R.61-51(H)(3)(b)	The term one hundred added for consistency.
R.61-51(H)(4)	Adds language to require automatic controllers on new Type “F” pools of 1,500 gallons or less.
R.61-51(H)(5)	No change in text. Item number changed due to re-numbering.
R.61-51(I)(1)	Clarifies when a change order is required.
R.61-51(I)(2)	Emphasizes the requirement for a change order and clarifies existing language.
R.61-51(I)(3)	Identifies the required form, reference simplified.
R.61-51(I)(4)	Includes the associated piping for pump and filter.
R.61-51(I)(5)	Emphasizes the requirement for a change order and clarifies existing language.
R.61-51(I)(6)	Added to emphasize the requirement for a change order and clarifies existing language to include references to other sections.
R.61-51(I)(7)	Added to emphasize the requirement for a change order and clarifies existing language to include references to other sections.

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- R.61-51(I)(8) Added to emphasize the requirement for a change order for new construction and clarifies existing language to include references to other sections.
- R.61-51(I)(9) Added to emphasize the requirement for a change order for new construction and clarifies existing language to include references to other sections.
- R.61-51(I)(10) Item number changed due to re-numbering. Previously approved change orders included.
- R.61-51(J)(2) Revises dates associated with payment of fees and operating permits.
- R.61-51(J)(4)(b) Adds language for deck furniture.
- R.61-51(J)(5) Revises language concerning water supply.
- R.61-51(J)(6) Revises drinking water fountain language.
- R.61-51(J)(8) Adds language to clarify purpose of equipment enclosure room.
- R.61-51(J)(9) The term his/her added for consistency.
- R.61-51(J)(10) The term his/her added for consistency.
- R.61-51(J)(11)(a) The term two-thousand added for consistency.
- R.61-51(J)(11)(b) Requires all pools to be locked when not open.
- R.61-51(J)(11)(c) Changes requirement from adequate supervision to attendants.
- R.61-51(J)(11)(d) Revises language concerning life saving equipment.
- R.61-51(J)(11)(e) Adds language pertaining to emergency equipment deleted from (J)(11)(d).
- R.61-51(J)(11)(f-j) Item letters changed due to re-numbering.
- R.61-51(J)(11)(f) Adds language pertaining to first aid kits deleted from (J)(11)(d).
- R.61-51(J)(11)(g) Clarifies existing language concerning emergency notification devices.
- R.61-51(J)(11)(h) Adds language to clarify posting of signs in pool areas, reference corrected to reflect changes.
- R.61-51(J)(11)(i) Reference changed to reflect re-numbering.
- R.61-51(J)(11)(j) Reference changed to reflect re-numbering.
- R.61-51(J)(11)(k) Adds language concerning diving stands.
- R.61-51(J)(11)(l) Adds language concerning automatic vacuum systems.
- R.61-51(J)(12) Reference changed to reflect re-numbering.
- R.61-51(J)(14) Section title changed from "Water Quality Standards" to "Water Quality".

- R.61-51(J)(14)(a) Adds language concerning test kits.
- R.61-51(J)(14)(b-c) Item letters changed due to re-numbering.
- R.61-51(J)(14)(d) Language added pertaining to hand feeding of chemicals.
- R.61-51(J)(14)(e) Language added pertaining to chemical or biological contamination.
- R.61-51(J)(16) Changes maximum pools temperature from 110 degrees Fahrenheit to 104 degrees Fahrenheit.
- R.61-51(J)(17)(a-c) Clarifies existing text pertaining to daily operation reports.
- R.61-51(J)(18) Language moved to (18) from (21) and revised.
- R.61-51(J)(19) No change in text, item number changed due to re-numbering.
- R.61-51(J)(20) Revises language for bacteriological quality. Item number changed due to re-numbering.
- R.61-51(J)(21) Revises language for inspection of pool facilities and sampling of pool water.
Item number and letters changed due to re-numbering.
- R.61-51(J)(22) Revises language for facility closure, changing and adding time limitations
- R.61-51(J)(23) Deletes language pertaining to payment of operating permit fees, replaced by
reference to R. 61-30 Environmental Protection Fees.
- R.61-51(K) Section name changed from “Enforcement and Penalties” to “Pool Closures
and Enforcement”.
- R.61-51(K)(1) Item number changed due to re-numbering.
- R.61-51(K)(1)(a)(i) Revises language for displaying annual operating permit.
- R.61-51(K)(1)(a)(iii) Revises language for visibility of main drains.
- R.61-51(K)(1)(a)(iv) Revises language for life saving equipment.
- R.61-51(K)(1)(v) Adds language for emergency notification device.
- R.61-51(K)(1)(a)(vi) Item number changed due to re-numbering. Revises language for safety hazards.
- R.61-51(K)(1)(a)(vii) No change in text. Item number changed due to re-numbering.
- R.61-51(K)(1)(a)(viii) No change in text. Item number changed due to re-numbering.
Original item (viii) moved.
- R.61-51(K)(1)(a)(ix) Revises language for recirculation equipment. Item number changed
due to re-numbering. Original item (ix) deleted.
- R.61-51(K)(1)(a)(x) Language added for pool log.

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- R.61-51(K)(1)(a)(xii) Maximum pool temperature changed from 110 to 104 degrees Fahrenheit.
- R.61-51(K)(1)(a)(xiii) Revises language for posting of signs.
- R.61-51(K)(1)(a)(xiv) Language moved from (viii).
- R.61-51(K)(1)(a)(xv) Adds language for proof of certified pool operator.
- R.61-51(K)(1)(b) Revises language for pool closure.
- R.61-51(K)(1)(c) Revises language for pool closure procedures.
- R.61-51(K)(1)(d) Adds language for technical assistance visit.
- R.61-51(K)(2) Deletes language for penalties. Item number changed due to re-numbering.
- R.61-51(K)(3) Combines language for penalties and enforcement deleted from (K)(1) and (K)(2).
- R.61-51(L) Remains the same.
- R.61-51(M) Provides the date this regulation takes effect.

Certain graphics (pool specifications, depth chart, skimmer diagram, radial pool steps) are shown in the code at the end of R.61-51. The Department is removing these graphics due to duplication within the body of the regulation.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invites members of the public and regulated community to attend Informational Forums to be conducted by Department staff on the following dates and locations:

September 4, 2001 at 7:00 p.m. at Spartanburg Technical College, Business Interstate 85 at New Cut Road, Spartanburg, SC

September 11, 2001 at 7:00 p.m. in Peeples Auditorium, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC

September 18, 2001 at 7:00 p.m. at Ocean Lakes, Myrtle Beach, SC

September 25, 2001 at 7:00 p.m. at the Town of Hilton Head Council Chambers, Hilton Head, SC

The purpose of these forums is to answer questions, clarify issues, and receive comments from interested persons on the proposed amendment of R.61-51. Comments received shall be considered by staff in formulating the final draft proposal for submission to the Board of Health and Environmental Control for public hearing scheduled for November 8, 2001, as noticed below.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment by writing to Jim Ridge at South Carolina Department of Health and Environmental Control, Bureau of Water, 2600 Bull Street, Columbia, SC 29201. Written comments must be received no later than 4:00 p.m. September 25, 2001. Comments received by the deadline date will be considered in formulating the final proposed amendment for public hearing before the Board of Health and Environmental Control. Comments received shall be submitted to the Board in a Summary of Public Comments and Departmental Responses for consideration at the public hearing.

Copies of the text of the proposed amendment for public notice and comment may be obtained by contacting Erica Johnson at South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201; Telephone (803) 898-3541; Fax (803) 898-4215.

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 amendment of R.61-51 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on November 8, 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. The agenda is published by the Department ten days in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendment of R.61-51 by writing to L. Jim Ridge at the Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201: Fax (803) 898-4215. Written comments must be received no later than 4:00 p.m. on September 25, 2001. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing on November 8, 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 noticed above.

Copies of the final proposed regulation for submission to the Board for public hearing before the DHEC Board may be obtained by contacting Erica Johnson at the Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201: Phone (803) 898-3541.

Preliminary Fiscal Impact Statement:

There will be minimal costs incurred by the State due to printing associated with the Regulation revision and certain revised Department forms necessary to support the program. See Statement of Need and Reasonableness below.

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.61-51, Public Swimming Pools

Purpose: The Department is proposing amendment of R.61-51 to clarify existing requirements for public swimming pools and outline technical elements in a clear concise manner, to better ensure the safe operation of all public swimming pools, spas and water parks, and enhance understanding of and compliance with the swimming pool regulation.

Legal Authority: S.C. Code Section 44-55-2310 et seq., State Recreational Waters Act

Plan for Implementation: The proposed amendments would be incorporated within R.61-51 upon approval of the Board of Health and Environmental Control, General Assembly, and publication in the State Register. The proposed amendment will be implemented in the same manner in which the present regulation is implemented.

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DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFIT: Department staff, after several years of internal review, further consultation with the EQC districts, and meetings with the regulated community, determined that a revision of R.61-51 was necessary. The regulation needs to be amended in order to clarify specific areas of pool construction, allow for more flexibility in pool design, specify change order requirements, and create more uniformity and consistency in the administration of the public swimming pool program. In addition, some ambiguity and duplication needs removal to increase the comprehension and compliance with this revision.

DETERMINATION OF COSTS AND BENEFITS: There will be minimal costs incurred by the State due to printing associated with the Regulation revision and certain revised Department forms necessary to support the program. The regulated community could see some slight increases in new construction costs due to the requirement for automatic water quality control systems on certain types of small volume swimming facilities and minor changes to construction requirements for all pools. In addition, the project design engineer or architect must certify the construction of new pools under the proposed changes, which may result in a slight increase in design fees. The overall benefit of adopting these regulations will be to enhance swimmer safety, reduce the need to issue construction variances for new innovative pool designs, and clarify requirements for the regulated community.

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: No change is anticipated in the current environmental impact of the recreational waters program. Public health should benefit by increased pool patron safety and understanding of the revised Regulation by the regulated community. A better understanding should lead to increased aquatic facility compliance.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REVISIONS IN THE REGULATION ARE NOT IMPLEMENTED: There will be no adverse effect on the environment if the revisions are not implemented. However, there will be an adverse impact on the Department and regulated community due to the loss of increased patron safety and facility compliance that will be brought on by the implementation of the amendments.

Text:

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

Document No. 2647
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
 CHAPTER 61

Statutory Authority: 1976 Code Section 13-7-40, as amended

R.61-63. Radioactive Materials (Title A)

Preamble:

The Nuclear Regulatory Commission continually updates regulations, and state regulations are amended regularly to incorporate federal updates. The Department plans to adopt into regulation the Nuclear Regulatory Commission updates as an item of compatibility. Section 274 of the Atomic Energy Act of 1954, as amended, requires that the states adopt federal regulations for compatibility. The Department intends to make changes to R.61-63 to this extent. The intended action makes minor correcting and clarifying changes to the requirements in Part III which address standards for protection against radiation. Additional changes will conform Parts I, IV, VIII, and XI to the revised Part III. Subjects include Part III, Conditions Requiring Individual Monitoring of External and Internal Occupational Dose; Exceptions to Posting Requirements; Notification of Incidents; Part IV, Modification of Teletherapy Unit or Room; Part VIII, Radiation Survey Instruments (Well Logging); Surveillance of Operations; Part XI, Access Control (Irradiators). Additional amendments in Part V, Industrial Radiography, are solely administrative in that they correct and clarify the text of an existing regulation and do not result in any essential change. Subjects dealt with in Part V clarify implementation dates for certain training requirements. Proposed regulations will comply with 10 CFR Parts 20, 34, 35, and 36, Final Rules, published in the Federal Register on July 9, 1998, July 23, 1998 and August 26, 1998. Legislative review will not be required.

A Notice of Drafting for this amendment was published in the State Register on March 23, 2001. The revision is being promulgated to comply with federal law; neither a fiscal impact statement nor preliminary assessment report is required. See discussion of proposed revisions below and a statement of need and reasonableness provided herein.

Discussion of Proposed Revisions:

- (1) Revises definitions to conform to Part III.

<u>SECTION</u>	<u>REVISION</u>
61-63.1.2.11	Revises definition for "High Radiation Area."

- (2) Definition revisions, deletions and renumbering for Part III.

<u>SECTION</u>	<u>REVISION</u>
61-63.3.2.20	Revises definition for "Declared pregnant woman."
61-63.3.2.37	Deletes definition for "Eye dose equivalent."
61-63.3.2.38 through 3.2.40	Renumbered due to deletion of 3.2.37.
61-63.3.2.40	New definition for "High Radiation Area" added.
61-63.3.2.42	Adds new definition for "Individual monitoring devices."

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61-63.3.2.42 Renumbered.
through 3.2.43

Renumbered to 3.2.45 and changed to add new definition for “Lens dose equivalent (LDE).”

61-63.3.2.44 Renumbered.
through 3.2.71

61-63.3.2.72 Renumbered and revised to reflect addition to “Very high radiation area” definition.

61-63.3.2.73 Definitions renumbered.
through 3.2.81

(3) Clarifying changes for radiation protection programs.

SECTION

REVISION

61-63.3.4.2 Section revised to clarify intent.

61-63.3.5.1.2.1 Revised to reference lens dose.

61-63.3.5.3 Section revised to reference lens dose.

61-63.3.7.1 Revises section to reference lens dose.

61-63.3.10.1 Section revised to clarify authorization of planned special exposure.

61-63.3.12.1 Revised section to incorporate term “dose equivalent.”

61-63.3.12.3 Revised section to incorporate term “dose equivalent.”

61-63.3.12.3.2 Revised section to incorporate term “dose equivalent.”
and 3.12.4

61-63.3.16.1.2.1 Revised to expand focus of radiation surveys.

61-63.3.16.1.2.3 Revision to delete redundant phrase.

61-63.3.17.1 Revised section to clarify sources of radiation exposure requiring monitoring.

61-63.3.17.1.2 Revision of limits for monitoring of external radiation exposure to minors.

61-63.3.17.1.3 Renumbers section to revise limits for monitoring of external radiation exposure to declared pregnant women.

61-63.3.17.1.4 Renumbered section.

61-63.3.17.2.1 Clarification for revision to next section.

61-63.3.17.2.2 Revision of limits for monitoring of internal exposure to minors.

61-63.3.17.2.3	Adds section to revise limits for monitoring of internal exposure to declared pregnant women.
61-63.3.23.4 through 3.23.4.2	Adds new section for posting exemptions for Teletherapy rooms in hospitals.
61-63.3.26.4	Clarifies method of licensee notification of the Department.
61-63.3.34.2	Existing section changed to add new section clarifying units used in record keeping.
61-63.3.34.2 through 3.34.6	Renumbered sections due to addition of new material.
61-63.3.35.2	Revision of record retention frequency.
61-63.3.36.1	Revision of record retention frequency.
61-63.3.37.6	Revision of record retention frequency.
61-63.3.39.1.1	Revision to reference lens dose.
61-63.3.39.1.2	Revision deleting term "body burden."
61-63.3.39.1.4	Revision to clarify committed effective dose equivalent assessment requirements.
61-63.3.45.1	Revision to add telephone number.
61-63.3.45.1.1.2	Revision to reference lens dose.
61-63.3.45.2.1.2	Revision to reference lens dose.
61-63.4.5.2	Section revised for typographical error.
61-63.4.7.6.3	Revision of record retention frequency.
61-63.4.7.7.3	Revision of record retention frequency.
61-63.4.8.2.5	Revision of record retention frequency.
61-63.4.8.3.5	Revision of record retention frequency.
61-63.4.8.4.3	Revision of record retention frequency.
61-63.4.8.6.9	Revision of record retention frequency.
61-63.4.8.11.8	Revision of record retention frequency.
61-63.4.8.13.6	Revision of record retention frequency.
61-63.4.8.15.2	Revision of record retention frequency.
61-63.4.10.2.5	Revision of record retention frequency.
61-63.4.11.2.3	Revision of record retention frequency.

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- 61-63.4.11.3.1.4 Revision of record retention frequency.
- 61-63.4.13.2.3 Revision of record retention frequency.
- 61-63.4.13.3.1.4 Revision of record retention frequency.
- 61-63.4.13.4.6 Revision of record retention frequency.
- 61-63.4.13.5.2 Revision of record retention frequency.
- 61-63.4.14.4.3 Revision of record retention frequency.
- 61-63.4.14.9.5 Revision of record retention frequency.
- 61-63.4.14.13.4 Revision of record retention frequency.
- 61-63.4.14.13.8 Revision of record retention frequency.
- 61-63.4.14.14.1.2.1 Section revised for radiation surveys measuring dose rates in Teletherapy facilities.
- 61-63.4.14.14.1.2.2 Section revised for radiation surveys measuring dose rates in Teletherapy facilities.
- 61-63.4.14.15.3 Revision of record retention frequency.
- 61-63.4.14.16.1 through 4.14.16.1.2 Sections revised referencing requirements for modification of a Teletherapy room before beginning a treatment program.
- 61-63.4.16.2.3 Revision of record retention frequency.
- 61-63.4.16.3.3 Revision of record retention frequency.
- 61-63.4.16.4.2 Revision of record retention frequency.
- (4) Clarification of implementation deadlines for industrial radiography.
- SECTION REVISION
- 61-63.5.9.5 Sentence added to clarify implementation date for depleted uranium leak testing requirements.
- 61-63.5.12.1.2 Revision to section clarifying implementation date for training requirements.
- 61-63.5.12.8 and 5.12.9 Revision to sections clarifying implementation dates for training and certification requirements.
- 61-63.5.21.4 Revision to section to clarify implementation date for meeting requirement of the two-man crew rule.
- 61-63.5.22.4 Revision to section to clarify implementation date for meeting RSO training requirements.
- (5) Miscellaneous administrative, typographical and clarifying changes.

<u>SECTION</u>	<u>REVISION</u>
61-63.7.11.3	Revision correcting typographical error.
61-63.8.9.1	Revision clarifying survey meter requirements for well logging programs.
61-63.8.24.2	Clarification of reference.
61-63.11.8.7	Revision to posting requirements for panoramic or underwater irradiators.

Notice of Staff Informational Forum:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on September 24, 2001 at 10:00 a.m. in Room 103, 1st floor of the Heritage Building at the Department of Health and Environmental Control at 1777 St. Julian Place, Columbia, S.C. 29201.

Interested persons are also provided an opportunity to submit written comments to Pearce O’Kelley, Chief, Bureau of Radiological Health at South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. Written comments must be received no later than 4:00 p.m. September 24, 2001. Comments received by the deadline date will be considered in formulating the final proposed amendment for public hearing before the Board of Health and Environmental Control as noticed below. Comments received shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Melinda Bradshaw at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 737-7400.

Notice of Board Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 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 October 11, 2001 to be held in Room 3420 (Board Room) of the Commissioner’s Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted 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 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 Pearce O’Kelley, Chief, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 737-7400. Comments must be received no later than 4:00 p.m. on September 24, 2001. Comments received shall be considered by the staff in formulating the final proposed regulation for public hearing on October 11, 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.

Copies of the proposed regulation for consideration at the public hearing before the Board may be obtained by contacting Melinda Bradshaw at South Carolina Department of Health and Environmental Control, Bureau of Radiological Health, 2600 Bull Street, Columbia, SC 29201 or by calling (803) 737-7400.

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Preliminary Fiscal Impact Statement:

A preliminary fiscal impact statement is not required due to this revision being promulgated to comply with federal laws.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: R.61-63, Radioactive Materials (Title A)

Purpose: To amend Regulation 61-63 in accordance with changes to Federal Regulation 10 CFR Part 20, 34, 35, and 36.

Legal Authority: This change to state law is authorized by S.C. Code Section 13-7-40 and required by Section 274 of the Atomic Energy Act, 40 U.S.C. Section 2021b.

Plan for Implementation: Existing staff of the Bureau of Radiological Health will implement these changes. The additional requirements are expected to require 30 man days of effort. Impact on other program areas will be slight.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION AND EXPECTED BENEFIT: This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because each change is necessary to maintain compatibility with Federal regulations. In amending the Federal regulations, the U.S. Nuclear Regulatory Commission found the following:

The proposed regulation provides clarifying and minor correcting changes to definitions regarding standards for protection against radiation.

The proposed regulation revises the criteria for Teletherapy room modification and surveys.

The proposed regulation changes the deep dose equivalent monitoring requirements for minors and pregnant women from one-tenth of the applicable limit or 0.05 rem to 0.1 rem.

The proposed regulation clarifies compliance deadlines for certain training and safety requirements outlined for industrial radiography.

The proposed regulation clarifies radiation survey instrument requirements for well logging programs.

The proposed regulation revises criteria for access control for industrial irradiator programs.

DETERMINATION OF COSTS AND BENEFITS: No additional cost will be incurred by the State or its political subdivisions by the implementation of this amendment. Existing staff and resources will be utilized to implement this amendment to the regulation. It is anticipated that the amendment will not create any significant additional cost to the regulated community based on the fact that the requirements or changes to the regulation will be substantially consistent with the current guidelines and review guidelines utilized by the Department.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: It is necessary to update existing regulations as changes occur at the federal level in order to maintain compatibility with the federal government and other

Agreement States. This will ensure an effective regulatory program for radioactive material users under state jurisdiction, and protection of the public and workers from unnecessary exposure to ionizing radiation.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: None. Federal requirements will apply to all affected users. The proposed amendments eliminate possible duplicative or redundant requirements.

Instructions: Amend R.61-63 pursuant to each individual instruction provided with the text below:

TEXT:

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

Document No. 2644
DEPARTMENT OF LABOR, LICENSING AND REGULATION
STATE BOARD OF DENTISTRY
CHAPTER 39
Statutory Authority: 1976 Code Sections 40-15-40, 40-15-80 and 40-15-85.

Preamble:

The State Board of Dentistry is proposing to amend Regulation 39 to clarify the meaning and intent of the phrase “authorized the procedures to be performed” pursuant to Section 40-15-85(B), which relates to the general supervision of dental hygienists practicing in school settings, hospitals, and other facilities and institutions, pursuant to Sections 40-15-80(B) and (C). The Board believes that the phrase, “authorized the procedures to be performed” used in Section 40-15-85(B), requires the dentist to perform a clinical examination of the patient and determine the need for any specific treatment, and issue a written work order for the procedure(s) to be performed by the dental hygienist under general supervision.

Section by Section Discussion:

A new section is added as Regulation 39-18 to clarify the standards for dentists to authorize certain procedures to be performed by dental hygienists under general supervision. The proposed regulation also includes detailed requirements for information contained in the authorization form.

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 of Laws of South Carolina, as amended, such hearing will be conducted at the Administrative Law Judge Division at 9:00 a.m. on Wednesday, October 10, 2001. Written comments may be directed to F. Rion Alvey, Administrator, State Board of Dentistry, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Monday, September 24, 2001.

Preliminary Fiscal Impact Statement: There will be no additional cost incurred by the State or any political subdivision.

Statement of Need and Reasonableness: This amendment is necessary in order to protect patients in this State from further injury resulting from the performance of procedures by dental hygienists without prior examination and determination by a licensed dentist as to the necessity and appropriateness of any specific treatment. The Board is aware of specific allegations of substandard care in similar situations that indicate the need for

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immediate promulgation, regardless of whether or not such allegations might ultimately be found true in particular instances.

DESCRIPTION OF REGULATION:

Purpose: The purpose of this regulation is to further define the term “authorized the procedures to be performed” used in Section 40-15-85(B) as it relates to the general supervision of dental hygienists practicing in school settings, hospitals, and other facilities and institutions, pursuant to Sections 40-15-80(B) and (C). “Authorized the procedures to be performed” requires the dentist to perform a clinical examination of the patient and determine the need for any specific treatment, and issue a written work order for the procedure(s) to be performed by the dental hygienist under general supervision.

Legal Authority: Statutory Authority: 1976 Code Sections 40-15-40, 40-15-80 and 40-15-85.

Plan for Implementation: Administratively, the Board will see that these provisions are implemented by informing the licensees through written and oral communications and newsletters.

DETERMINATION OF NEED AND REASONABLENESS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The need to immediately establish this provision is to protect patients in this State from further injury resulting from the performance of procedures by dental hygienists without prior examination and determination by a licensed dentist as to the necessity and appropriateness of any specific treatment. The Board is aware of specific allegations of substandard care in similar situations that indicate the need for immediate promulgation, regardless of whether or not such allegations might ultimately be found true in particular instances.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional cost incurred by the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates concerning these regulations.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH: This amendment will have no effect on the environment. The public health of this State will be improved by clarifying the circumstances under which dentists may authorize certain procedures to be performed by dental hygienists in this State.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: This regulation will have no detrimental effect on the environment. The public health of this State will be adversely affected if the regulation is not implemented due to continued ambiguity in the circumstances under which dentists may authorize certain procedures to be performed by dental hygienists in this State

Text:

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

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Filed: August 9, 2001, 11:35 am

Document No. 2642
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: S.C. Code Sections 1-23-130, 47-20-10 *et seq.* and 1996 Act No. 460

Emergency Situation:

South Carolina Department of Health and Environmental Control
Emergency Regulations on Swine Facilities with
1,000,000 Pounds or More of Normal Production Animal Live Weight at Any One Time
Statement of Situation Requiring Immediate Promulgation

On April 23, 2001, Governor Jim Hodges issued Executive Order No. 2001-11 which declared a State of Emergency due to the threat of a disaster within the State due to additional larger swine facilities proposing to locate in South Carolina. The Executive Order also ordered the "Board of Health and Environmental Control to meet at the earliest possible time to consider an administrative moratorium on the issuance of permits for swine facilities, lagoons and associated waste management plans or other appropriate action that will allow sufficient time for exploration of and analysis of the issues associated with the handling, storage, treatment and final disposal or utilization of wastes created by these facilities.≡

The Board of Health and Environmental Control, as directed by the Governor, met and imposed a moratorium on issuance of permits for swine facilities until August 9, 2001. When this moratorium expires, the emergency situation declared by the Governor in his executive order will still exist requiring other actions to be taken by the Department. While the Department is proposing revisions to S.C. Regulation 61-43, *Standards for the Permitting of Agricultural Animal Facilities*, that will address the emergency declared in the Governor=s Executive Order, interim regulations are necessary to provide adequate controls until Regulation 61-43 can be permanently amended, anticipated to take place by approximately June 1, 2002. The time period between the moratorium expiration date and probable legislative approval of the proposed regulation includes hurricane season. Therefore, the Department must take other action to ensure a disaster does not occur between August 9, 2001, and the legislative approval date of the proposed amendments to S.C. Regulation 61-43.

This emergency regulation is a reasonable means for the Department of Health and Environmental Control to comply with Governor Jim Hodges= Executive Order. The regulation does not create a new permit, but ensures that appropriate requirements are applied to swine facilities permitted for 1,000,000 pounds or more of normal production animal weight at any one time until Regulation 61-43 can be permanently amended.

The Department is the health and environment agency of South Carolina and hereby finds that the abnormal and unusual conditions, immediate need, and the State=s best interest require immediate promulgation of an emergency regulation to protect public health, to protect the environment, and to protect the quality of life in South Carolina. The following emergency regulation is hereby issued pursuant to S.C. Code Ann. Section 1-23-130 (Supp. 2000).

Text:

South Carolina Department of Health and Environmental Control
Emergency Regulations on Swine Facilities with
1,000,000 Pounds or More of Normal Production Animal Live Weight at Any One Time

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Section 10. Purpose and Applicability

A. Purpose.

1. To establish standards applicable to swine facilities with a normal production animal live weight at any one time of 1,000,000 pounds or more for the growing or confining of swine, processing of swine manure and other swine by-products, and land application of swine manure and other swine by-products in such a manner as to protect the environment, and the health and welfare of citizens of the State from pollutants generated by this process.

2. To address the considerable concern for the environmental, health, and social effects of swine facilities in adjoining communities across the entire State, and the danger to state and local economic development efforts.

3. To address the social effects of swine facilities and limit the number of swine facilities by any one applicant within twenty-five miles of each other.

4. To address the State of Emergency declared in South Carolina by Governor Jim Hodges in Executive Order No. 2001-11 issued on April 23, 2001.

5. To thwart the threat of a disaster within South Carolina due to swine facilities locating in South Carolina.

B. Applicability.

1. This regulation applies to:

a. all new swine facilities with 1,000,000 pounds or more of normal production animal live weight at any one time;

b. all expansions of existing swine facilities with 1,000,000 pounds or more of normal production animal live weight at any one time;

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c. expansions of existing swine facilities when the expansion results in 1,000,000 pounds or more of normal production animal live weight at any one time as determined under these regulations; and

d. new manure utilization areas for existing swine facilities with 1,000,000 pounds or more of normal production animal live weight at any one time.

2. This regulation applies to all swine manure and other swine by-products from swine facilities with 1,000,000 pounds or more of normal production animal live weight at any one time applied to the land.

3. This regulation applies to all land where swine manure and other swine by-products from swine facilities with 1,000,000 pounds or more of normal production animal live weight at any one time are applied.

Section 20. Definitions. For purposes of this regulation, the definitions found in Part 100.20 of S.C. Regulation 61-43 and the following definitions are applicable. When any term in this regulation is defined differently than defined in Regulation 61-43, the definition in this regulation applies.

A. **Average animal live weight** means the sum of the average exit weight of the animal from the facility and the average entry weight divided by two, as shown by the following formula:

$$\text{Average animal live weight} = (\text{Average Exit Weight} + \text{Average Entry Weight})/2$$

B. **Co-permittee** means a cooperative of persons or entities that are legally and financially responsible for a permit. The co-permittees at an animal facility include any entity or person(s) that exercises substantial operational control over an animal facility along with the owner/operator of the facility. All co-permittees are responsible for any violations, corrective actions, enforcement actions or penalties associated with the facility and the permit.

C. **Expansion** means an increase in the permitted number of animals or normal production live weight at the facility that will result in physical construction at the facility. For facilities with a lagoon, treatment system or manure storage pond, expansion means an increase due to construction in the maximum capacity of the existing lagoon, treatment system or manure storage pond as determined using the appropriate design standards of the United States Department of Agriculture's Natural Resource Conservation Service. An animal manure treatment lagoon that is converted to animal manure storage pond is considered an expansion of the facility. For facilities permitted prior to 1998, where the treatment/storage design function was not clearly specified, the Department shall review the facility's operation records and compliance history to determine the current function and condition of the manure handling structures. If the existing structure can handle additional animals, without physical alteration, significant changes in the original function of the structure, or any significant increase in odor, the Department may allow this increase in animals without classifying the change as an expansion.

D. **Integrator** or **Integrating Company** means any entity or person(s) who contracts with agricultural animal producers to grow animals to be supplied to this person(s) at the time of removal from the animal growing houses or facilities and exercises substantial operational control over an animal facility along with the owner/operator of the facility. **Substantial operational control** includes, but is not limited to, the following: one who directs the activities of persons working at the animal facility either through a contract, direct supervision, or on-site participation; owns the animals; or specifies how the animals are grown, fed, or medicated. This definition does not include independent producers that contract with other independent producers to accomplish a portion of the animal growing process under contract.

E. **Normal Production** means normal production animal live weight at any one time.

F. **Normal production animal live weight at any one time** means the maximum number of animals at the facility at any one time multiplied by the average animal live weight of those animals.

G. A Producer \equiv means a person who grows or confines animals.

H. A Residence \equiv means a permanent inhabited dwelling, any existing church, school, hospital, or any other structure which is routinely occupied by the same person or persons more than twelve hours per day or by the same person or persons under the age of eighteen for more than two hours per day, except those owned by the applicant.

I. A Swine facility \equiv means an agricultural facility where swine are confined and fed or maintained for a total of forty-five days or more in a twelve-month period and crops, vegetative, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Structures used for the storage of swine manure from swine in the operation also are part of the swine facility. Two or more swine facilities under common ownership or management are considered to be a single swine facility if they are adjacent or utilize a common system for swine manure treatment and/or storage. For any new or expanding swine facility the combined normal production of all swine facilities owned by the producer, and of all facilities owned by corporations having a majority shareholder in common with the producer, within twenty-five miles of the new or expanding facility shall be used to determine the normal production of the new or expanding facility. For example, when a new facility has a proposed capacity of 300,000 pounds of normal production and the producer owns two other swine facilities within twenty-five miles of the new or expanding swine facility and the normal production of each existing facility is 400,000 pounds, the proposed swine facility's normal production is 1,100,000 (300,000 + 400,000 + 400,000) pounds.

Section 30. General

A. Swine facilities covered by this regulation shall meet all applicable requirements of S.C. Regulation 61-43 in addition to the requirements of this regulation.

B. Swine facilities covered by this regulation shall use the best available technology for the handling, storage, processing, treatment, and utilization of manure.

C. Swine facilities covered under this regulation must apply for an individual National Pollutant Discharge Elimination System (NPDES) permit for Confined Animal Feeding Operations (CAFO) in accordance with the provisions of Regulation 61-9, *Water Pollution Control Permits*. The Department shall not issue the permit required by S.C. Regulation 61-43 until after the NPDES permit is effective.

D. An integrator or integrating company that contracts with a swine facility covered by this regulation shall be an applicant and co-permittee with the producer for the permits issued to the facility under S.C. Regulations 61-43 and 61-9.

E. Section 300.30 of S.C. Regulation 61-43, entitled "Requirements in Lieu of Requirements Under Part 100 or Part 200 of this Regulation," is not applicable to swine facilities regulated under this regulation.

Section 40. Notification Requirements

A. Applicants seeking to construct a new or expand an existing swine facility covered by this regulation shall notify all property owners and person(s) residing within one mile (5280 feet) of the proposed location of the swine facility (footprint of construction) by certified mail. The notification must include the following information:

1. Name and address of the person proposing to construct the swine facility;
2. The type of swine facility, the design capacity, and a description of the proposed swine manure management system;

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3. The name and address of the preparer of the Waste Management Plan;
4. The address of the local Natural Resources Conservation Service office; and
5. A statement informing the adjoining property owners and property owners within one mile of the proposed facility that they may submit written comments or questions to the Department.

B. Applicants for swine facilities covered under this regulation shall conduct a minimum of one public meeting to present to the public the proposed project, its purpose, design, and environmental impacts. The applicant shall provide at least thirty days (30) notice of the meeting date and time by advertisement in a local newspaper of general circulation in the area of the proposed facility. The minutes of the public meeting and proof of advertisement must be submitted to the Department at the time of application under SC Regulation 61-43.

Section 50. Siting Requirements

A. The minimum separation distance required between a swine facility covered by this regulation and waters of the State (excluding ephemeral and intermittent streams) is 2,640 feet (2 mile).

B. The minimum separation distance required between a swine lagoon, treatment system, or manure storage pond and waters of the State (not including ephemeral and intermittent streams) is 2,640 feet (2 mile). If the waters of the State (not including ephemeral and intermittent streams) are designated Outstanding Resource Waters, Critical Habitat Waters of federally endangered species, or Shellfish Harvesting Waters, the minimum separation distance required between a lagoon, treatment system, or manure storage pond and waters of the State (not including ephemeral and intermittent streams) is 3,960 feet (3/4 mile). A minimum 100-foot wide vegetative water quality buffer of plants and trees is required to be installed and maintained on the site between the facility and waters of the State. Sites with existing vegetation may qualify to utilize the existing vegetation for a buffer, if the vegetation is deemed sufficient. For new facilities constructed in areas where natural vegetation is not present, the Department shall evaluate these sites on a case-by-case basis to determine the amount of vegetative buffer that shall be planted. However, each site shall be required, at a minimum, to provide a vegetative buffer that meets the current NRCS standards.

C. The minimum separation distance required between a swine facility (including the lagoon, treatment system, and manure storage pond) covered by this regulation and real property owned by another person or a residence (excluding the applicant=s residence) is 1,750 feet.

D. The minimum separation distance between a swine facility (including a lagoon, treatment system, or manure storage pond) covered by this regulation and a potable water well (excluding the applicant=s well) is 1,750 feet.

E. The minimum separation distance required between swine facilities with 1,000,000 pounds or more of normal animal production is twenty-five miles.

F. Siting requirements applicable to all manure utilization areas associated with swine facilities covered by this regulation.

1. The minimum separation distance required between a manure utilization area and real property owned by another person is 200 feet from the property lines.

2. The minimum separation distance required between a manure utilization area and an occupied residence is 750 feet (excluding the applicant=s residence).

3. The minimum separation distance required between a manure utilization area and waters of the State (not including ephemeral and intermittent streams), ditches, and swales is 150 feet.

4. The minimum separation distance required between a manure utilization area and a potable water well is 200 feet.

5. The minimum separation distance required between a manure utilization area and ephemeral and intermittent streams is 100 feet.

Section 60. Manure Treatment Systems

A. All treatment systems at swine facilities covered by this regulation shall be designed to provide storage capacity for the 50-year, 24-hour storm event (precipitation and associated runoff) and at least two (2) feet of freeboard.

B. Lagoons and manure storage ponds at swine facilities covered by this regulation shall be lined with a geomembrane liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec.

C. Swine facilities covered by this regulation are prohibited from utilizing open lagoons or manure storage ponds. All facilities shall utilize best available technology for the manure handling, treatment, storage, and utilization. Lagoons and manure storage ponds utilized at these facilities shall be designed with airtight covers. Air pollution control devices utilizing the Best Available Technology shall be installed on all lagoon cover vents and openings to remove ammonia, hydrogen sulfide, methane, formaldehyde, and any other organic and inorganic air pollutants, which may be required by the Department. Such air pollution control devices shall meet all the requirements of the Department and appropriate air quality permits shall be obtained. "Best Available Technology" means, for the air emissions purpose of this regulation, the rate of emissions which reflects the most stringent emissions limitations required by any State regulation or permit, existing at the time the application is made, for all pollutants emitted from this source category; or, the most stringent emissions limit achieved in actual practice, whichever is more stringent.

D. Monitoring wells installed around treatment systems at swine facilities covered by this regulation must be sampled at least quarterly, unless more frequent sampling is specified in the permit.

E. Lagoons and manure storage ponds at swine facilities covered by this regulation shall install automated lagoon level monitoring devices.

F. No one lagoon or manure storage pond shall exceed one million cubic feet of total volume.

Section 70. Manure Utilization Areas

A. For swine facilities covered by this regulation, at least one up-gradient and two down-gradient groundwater-monitoring wells shall be installed for each drainage basin intersected by the manure utilization areas. The location, design and construction specifications for the monitoring wells shall be submitted in the application package. The information shall be reviewed and approved by the Department prior to permit issuance. The permit will contain specific requirements for sampling the groundwater monitoring wells including the frequency and parameters for sampling.

B. Swine facilities covered by this regulation are prohibited from utilizing spray application systems for manure application. Manure must be incorporated into the manure utilization fields utilizing subsurface injection at a depth of not less than six inches.

Section 80. Training and Certification Requirements

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A. The Department shall classify all manure treatment systems serving swine facilities covered by this regulation, giving due regard to size, types of work, character, and volume of manure to be treated, and the use and nature of the land resources receiving the manure.

B. Manure treatment systems may be classified in a group higher than indicated at the discretion of the Department by reason of the following:

1. incorporation in the treatment system of complex features which cause the treatment system to be more difficult to operate than usual; or
2. a waste stream that is unusually difficult to treat; or
3. conditions of flow; or
4. use of the receiving lands requiring an unusually high degree of system operation control; or
5. combinations of such conditions or circumstances.

C. The classifications for biological treatment systems are based on the following groups:

1. Group I - B. All agricultural manure treatment systems which include one or more of the following units: primary settling, chlorination, sludge removal, imhoff tanks, sand filters, manure sludge drying beds, grinding, screening, oxidation, storage ponds, and stabilization ponds.

2. Group II - B. All agricultural manure treatment systems which include one or more of the units listed in Group I-B and, in addition, one or more of the following units: manure sludge digestion, aerated lagoon, and manure sludge thickeners.

3. Group III - B. All agricultural manure treatment systems which include one or more of the units listed in Groups I-B and II-B and, in addition, one or more of the following: trickling filters, secondary settling, chemical treatment, vacuum filters, manure sludge elutriation, manure sludge incinerator, wet oxidation process, contact aeration, and activated sludge (either conventional, modified, or high rate processes).

4. Group IV - B. All agricultural manure treatment systems which include one or more of the units listed in Groups I-B, II-B, and III-B and, in addition, treat manure having a raw five-day biochemical oxygen demand of five thousand pounds a day or more.

D. The classifications for physical chemical manure treatment systems are based on the following groups:

1. Group I-P/C. All agricultural manure treatment systems, which include one or more of the following units: primary settling, equalization, pH control, and oil skimming.

2. Group II-P/C. All agricultural manure treatment systems which include one or more of the units listed in Group I-P/C and, in addition, one or more of the following units: manure sludge storage, dissolved air flotation, and clarification.

3. Group III-P/C. All agricultural manure treatment systems which include one or more of the units listed in Groups I-P/C and II-P/C and, in addition, one or more of the following: oxidation/reduction reactions, cyanide destruction, metals precipitation, manure sludge dewatering, and air stripping.

4. Group IV-P/C. All agricultural manure treatment systems which include one or more of the units listed in Groups I-P/C, II-P/C and III-P/C and, in addition, one or more of the following: membrane technology, ion exchange, tertiary chemicals, and electrochemistry.

E. It shall be unlawful for any person or corporation to operate an agricultural manure treatment system at a swine facility covered by this regulation unless the operator-in-charge holds a valid certificate of registration issued by the Board of Certification of Environmental Systems Operators in a grade corresponding to the classification of the agricultural manure treatment system supervised by him or her.

Section 90. Financial Assurance Requirements and Compliance History Requirements

A. The owner or operator, including any co-permittee, of a swine facility covered by this regulation shall provide evidence of financial responsibility in accordance with this section prior to permit issuances under S.C. Regulations 61-43 and 61-9. This information must be summarized in a Financial Assurance Plan that shall be submitted with the permit application package.

1. The following must be included in a Financial Assurance Plan:

a. Financial Assurance in the amount of ten percent of the initial capital costs for construction of the entire swine facility (including the barns, pens, feed storage, manure management, etc.) must be provided for remediation of pollution or other environmental or natural resource damage resulting from the facility.

b. One hundred percent of the cost for implementation of the Closure Plan for this facility.

2. Once the Financial Assurance Plan is approved by the Department it becomes part of the permit and the financial assurances set forth therein shall be maintained by the permittee.

B. The owner or operator, including any co-permittee, of a swine facility covered by this regulation shall submit a Closure Plan as part of the permit application under S.C. Regulation 61-43.

1. The Closure Plan shall provide for the closure of the manure treatment and storage facilities and the proper utilization or disposal of their contents after closure of the facility and any post closure requirements such as monitoring.

2. The plan shall include a detailed written estimate of the cost of hiring a third party to implement the plan and clean up the facility.

3. Once approved the Closure Plan, with the cost estimates, shall become part of the permit.

4. During the active life of the facility, the permittee shall annually adjust the closure cost estimate for inflation and provide additional financial assurance if the amount of financial assurance being provided is less than the new estimate.

5. The permittee shall increase the closure cost estimate and the amount of financial assurance provided under paragraph A(1)(b) of this section if changes to the Closure Plan increase the maximum cost of closure during the life of the facility.

6. The permittee may seek reduction of the closure cost estimate and the amount of financial assurance provided under paragraph A(1)(b) of this section if changes to the Closure Plan decrease the maximum cost of closure. The permittee must notify the Department and provide justification for the reduction of the closure cost. No reduction is allowed without Department approval.

7. After beginning partial or final closure, the permittee may request reduction of financial assurance for closure. The permittee may request reduction for partial closure only if sufficient funds are remaining in financial assurance to cover the maximum costs of closing the facility. No later than 60 days after receipt of the request, the Department will authorize reductions to the financial assurance in those amounts as the Department

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specifies in writing, if the Department determines that the expenditures are in accordance with the approved Closure Plan, or otherwise justified. If the Department does not authorize such reductions, the Department will provide to the permittee a detailed written explanation.

8. The permittee must provide continuous coverage for closure until released from financial assurance requirements by the Department.

C. The mechanisms for financial assurance shall be submitted to the Department in the Financial Assurance Plan for approval and shall allow the Department access to the funds in the event of failure of the permittee to cover costs for the items set forth in A.(1).(a) or (b) above. The permittee(s) shall use financial assurance from the following options:

1. Trust Fund.

a. A permittee may satisfy the requirements of this section by establishing a fully funded trust fund. Prior to issuance, the form of the trust fund must be submitted to the Department for approval.

b. The trustee shall be an entity which has the authority to act as a trustee in the State of South Carolina and whose trust operations are regulated and examined by a Federal or State agency.

c. If the permittee substitutes other financial assurances as specified in this section for all or part of a trust fund, the permittee may submit a written request to the Department for release of the amount in excess of required financial assurance.

d. The Department will agree to termination of a trust fund when:

i. A permittee substitutes alternate financial assurance as specified in this section; or

ii. The Department releases the permittee from the requirements of this section.

2. Letter of Credit.

a. A permittee may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit and submitting the letter to the Department.

b. The institution issuing the letter of credit shall be an entity which has the authority to issue such letters in the State of South Carolina and whose operations are regulated and examined by a Federal or State agency.

c. Prior to issuance the form of the Letter of Credit must be submitted to the Department for approval.

d. The letter of credit shall be irrevocable and issued for a period of at least one year. The letter of credit shall provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days prior to the expiration date, the institution notifies both the permittee and the Department by certified mail of a decision not to extend the expiration date. The 120 days shall begin on the date when both the permittee and the Department have received the notice, as evidenced by the return receipts.

e. Failure to provide alternate financial assurance during the 120-day period shall be grounds for immediate closure of the facility and the Department shall be authorized to draw down the letter of credit.

f. The Department will return the letter of credit to the issuing institution for termination when:

i. A permittee substitutes alternate financial assurance as specified in this section; or

ii. The Department releases the permittee from the requirements of this section.

3. Insurance.

a. A permittee may satisfy the requirements of this section by obtaining insurance, which conforms to the provisions of this section, and submitting a certificate of such insurance to the Department.

b. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in the State of South Carolina.

c. Each policy shall contain a provision allowing assignment of the policy to a successor owner. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

d. Prior to issuance the form of the insurance policy must be submitted to the Department for approval.

e. The permittee must maintain the policy in full force and effect until the Department consents to termination of the policy.

f. The policy shall provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy shall, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium and the insurer intends to cancel, terminate or refuse to renew the policy it must send notice by certified mail to the permittee and the Department. Cancellation, termination, or failure to renew may not occur during 120 days beginning with the date of receipt of the notice by both the permittee and the Department, as evidenced by the return receipts. Failure to provide alternate financial assurance during the 120-day period shall be grounds for immediate closure of the facility and the policy shall remain in full force and effect until closure is complete or insurance funds are exhausted under provisions of the policy.

g. The Department will agree to termination of the insurance policy when:

i. A permittee substitutes alternate financial assurance as specified in this section; or

ii. The Department releases the permittee from the requirements of this section.

4. Surety Bond.

a. A permittee may satisfy the requirements of this section by obtaining a payment or performance surety bond, which conforms to the requirements of this section.

b. The surety company issuing the bond shall be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

c. Prior to issuance the form of the bond shall be submitted to the Department for approval.

d. The surety bond shall be irrevocable and issued for a period of at least one year. The surety bond shall provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days prior to the expiration date, the institution notifies both the permittee and the Department by certified mail of a decision not to extend the expiration date. The 120 days shall begin on the date when both the permittee and the Department have received the notice, as evidenced by the return receipts. Failure to provide alternate financial assurance during the 120-day period shall be grounds for immediate closure of the facility and the surety will be required to perform or pay for closure under the bond if not completed by the permittee.

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e. The Department shall give written consent to the permittee that the surety bond may be terminated when:

- i. A permittee substitutes alternate financial assurance as specified in this section; or
- ii. The Department releases the permittee from the requirements of this section.

D. Release of the permittee from financial assurance: Within 60 days after receiving certifications from the permittee and an engineer that final closure has been completed in accordance with the approved Closure Plan, the Department will notify the permittee in writing that he/she will no longer be required by this section to maintain financial assurance for final closure of the facility. If no condition exist requiring remediation of pollution or other environmental or natural resource damage the financial assurance for remediation may be terminated.

E. Failure of the permittee to close the facility in accordance with the approved Closure Plan and this regulation or to remediate pollution or environmental or natural resource damage resulting from operation of the facility shall constitute forfeiture of the funds retained in the financial assurance mechanisms and the Department shall be allowed access to the funds for closure or remediation.

F. The owner or operator, including any co-permittee, of a swine facility covered by this regulation shall submit, at the time of application for a permit under S.C. Regulation 61-43, a Compliance History Report in accordance with this section.

1. The Compliance History Report is a complete environmental compliance history disclosure to be reported on a form provided by the Department prior to permit issuance. The form shall include the following:

a. a statement to the effect that neither the applicant, including any co-applicant, nor, in the case of a corporation or partnership, an officer, manager, partner, or shareholder of five percent or more of the stock or financial interest in such a corporation or partnership has been convicted of a felony or been adjudicated in contempt of court as described in this section or a description of any offenses identified in this section.

b. a list of the names, social security numbers, taxpayer identification numbers, and business addresses of the applicant, including any co-applicant, or, in the case of a corporation or partnership, its officers, managers, partners, or shareholders of five percent or more of the stock or financial interest in such a corporation or partnership.

c. a list of all environmental permits held by the applicant, including any co-applicant, and a detailed report on compliance with each permit. Copies of all enforcement actions associated with each permit shall be included in the report.

d. all information submitted on the form shall be sworn to and submitted by the individual or person reported on under oath. Any person submitting any material information that is false, fraudulent, incomplete, or misleading is subject to prosecution and punishment for perjury.

2. The Department may refuse to issue permits or revoke or modify issued permits under this section if the applicant, including any co-applicant, or, in the case of a corporation or partnership, an officer, manager, partner, or shareholder of five percent or more of the stock or financial interest in such a corporation or partnership has:

a. intentionally misrepresented or concealed any material fact in the application submitted to the Department;

b. obtained or attempted to obtain another permit from the Department by misrepresentation or concealment;

c. pled guilty, nolo contendere, or been convicted by final judgement, and all appeals have been exhausted to a violation of any federal environmental law or any environmental law of this State or of any other state, regardless of whether the violation presented a substantial endangerment to human health or the environment, within twenty years preceding the date of the application for such a permit;

d. been adjudicated in contempt of any court order enforcing any federal environmental laws or any environmental laws of this State or any other state within twenty years preceding the date of the application for such a permit;

e. been the holder of any permit under the environmental laws of this State, any other state, or any federal environmental law, which permit has been revoked for reasons of noncompliance or for which there have been significant incidents of noncompliance, within twenty years preceding the date of the application for a permit under this regulation;

f. been denied for reasons of noncompliance the issuance of any permit required under the environmental laws of this State, any other state, or any federal environmental law, within twenty years preceding the date of the application for a permit under this regulation.

g. had significant or chronic noncompliance with any environmental permit.

3. When refusing to issue a permit under the authority of this section, the Department shall issue a written determination.

Section 100. Violations

A. Swine facilities covered by this regulation shall be assessed automatic penalties (up to \$10,000 per day per violation) for the following violations:

1. Lagoon, treatment system or manure storage pond breach or loss of containment that is not the direct result of an Act of God.

2. Manure Utilization Area runoff due to improper manure application methods.

3. Discharge to groundwater on site causing groundwater to exceed any water quality standard established in Regulation 61-68, *Water Classifications and Standards*.

B. Second occurrence of any of the violations outlined in Section 100.A. shall result in immediate revocation of the permits issued under S.C. Regulations 61-43 and 61-9 and the automatic assessment of appropriate penalties.