

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.

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

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 the 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.

2003 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	1/10	2/14	3/14	4/11	5/9	6/13	7/11	8/8	9/12	10/10	11/14	12/12
Publishing Date	1/24	2/28	3/28	4/25	5/23	6/27	7/25	8/22	9/26	10/24	11/28	12/26

REPRODUCING OFFICIAL DOCUMENTS

Documents appearing in the *State Register* are prepared and printed at public expense. Media services are encouraged to give wide publicity to documents printed in the *State Register*.

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are 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.

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 refiled for one additional ninety-day period.

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Subscriptions to the *South Carolina State Register* are available electronically through the South Carolina Legislature Online website at www.scstatehouse.net via an access code, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for **either** format is \$95.00. Payment must be made by check payable to the Legislative Council. To subscribe complete the form below and mail with payment. Access codes for electronic subscriptions will be e-mailed to the address submitted on this form.

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In order by General Assembly review expiration date
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South Carolina General Assembly Home Page: www.scstatehouse.net

DOC No.	RAT FINAL No. ISSUE	SUBJECT	EXP. DATE	AGENCY
2821		Highway Patrol Wrecker Regulations	2-09-04	Department Public Safety
2816		Environmental Protection Fees	2-29-04	Department Health and Envir Control
2810		Fees, Liability Insurance Requirements	2-29-04	LLR: Elevator and Amusement Rides
2824		Environmental Protection Fees	2-29-04	Department of Health and Envir Control
2826		Machines	2-29-04	Department of Revenue
2815		Decisions on a permit, Environmental Protection Fees	2-29-04	Department of Health and Envir Control
2818		Elevator and Amusement Rides, Inspections	3-12-04	LLR: Elevator and Amusement Rides
2830		Subdivision Water Supply and Sewage Treatment/Disposal	3-22-04	Department of Health and Envir Control
2829		Residential Care Facility Administration	3-22-04	LLR: Board of Long Term Health Care Administrators
2828		Burglar Alarm Systems	3-22-04	LLR: Contractors' Licensing Board
2832		Business Enterprise Program	4-10-04	Commission for the Blind

COMMITTEE REQUESTED TO WITHDRAW (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2729	2-04-03	Fees	4-02-03 LLR: Board of Pharmacy
2822	3-26-03	General-Food Stamp Program	6-26-03 Department Social Services

RESOLUTION INTRODUCED TO DISAPPROVE (120 DAY REVIEW PERIOD TOLLED)

DOC No.	DATE	SUBJECT	AGENCY
2629	1-29-03	Specific Project Stds for Tidelands & Coastal Waters	1-31-03 Department of Health and Envir Control
2801	2-19-03	Individual Sewage Treatment and Disposal Systems	5-29-03 Department of Health and Envir Control
2800	4-02-03	Environmental Protection Fees	5-20-03 Department of Health and Envir Control
2753	5-08-03	LIFE Scholarship Program	5-13-03 Commission on Higher Education

WITHDRAWN:

DOC No.	DATE	SUBJECT	AGENCY
2823	5-14-03	S C. Patients' Compensation Fund	7-03-03 Department of Insurance

2 EXECUTIVE ORDERS

2003-23

WHEREAS, Part 1B, proviso 8.38 of the 2003-2004 Appropriations Act requires the Director of the Department of Health and Human Services to submit fiscal impact statements to legislative leadership whenever the department plans to announce a change to eligibility, coverage, duration or scope of services, reimbursement rates or any other change that would affect Medicaid spending; and

WHEREAS, I vetoed proviso 8.38 because the reporting requirements are unduly cumbersome and a yearly report would be a more efficient method of conveying the same information to the legislature.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I hereby order the Director of the Department of Health and Human Services to issue an annual report to the General Assembly setting forth any changes to eligibility, coverage, duration or scope of services, reimbursement rates of providers, or any other changes made during the prior fiscal year that impacted Medicaid spending.

This Executive Order shall be effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF
THE STATE OF SOUTH CAROLINA, THIS 13th DAY OF
NOVEMBER 2003.**

MARK SANFORD
Governor

2003-24

WHEREAS, Section 1-3-240(B) of the South Carolina Code of Laws states: "[a]ny person appointed to a state office by a Governor, either with or without the advice and consent of the Senate, other than those officers enumerated in subsection (C), may be removed from office by the Governor at his discretion by an Executive Order removing the officer"; and

WHEREAS, membership on the Board of Trustees of the John De La Howe School is a state office that is not listed among the exempt state offices enumerated in Section 1-3-240(C) of the South Carolina Code of Laws; and

WHEREAS, Westley Darrell McAllister of Mt. Carmel, McCormick, South Carolina, was previously named to the Board of Trustees of the John De La Howe School by former Governor Hodges;

WHEREAS, Cordes G. Seabrook, Jr. of Anderson, South Carolina is a fit and proper person to serve as a member of the Board of Trustees of the John De La Howe School.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina, I hereby remove Westley Darrell McAllister from the Board of Trustees of the John De La Howe School and declare the seat previously held by Westley Darrell McAllister to be vacant.

FURTHER, I hereby appoint on an interim basis Cordes G. Seabrook to replace Westley Darrell McAllister as a member of the Board of Trustees of the John De La Howe School pursuant to Section 1-3-210 of the South Carolina Code of Laws.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 17th DAY OF OCTOBER, 2003.**

MARK SANFORD
Governor

2003-25

WHEREAS, Section 53-5-20 of the South Carolina Code of Laws allows the Governor to declare Christmas Eve of each year a holiday for state government employees; and

WHEREAS, I encourage all state government employees to celebrate the holiday season by spending time with family members and loved ones and to reflect on the blessings of the past year and look forward to the advent of the New Year.

NOW, THEREFORE, pursuant to Section 53-5-20 of the South Carolina Code of Laws, I hereby declare Wednesday, December 24, 2003, as the Christmas Eve holiday for state government employees.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 13th DAY OF NOVEMBER, 2003.**

MARK SANFORD
Governor

4 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL NOTICE OF GENERAL PUBLIC INTEREST CHAPTER 61

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

South Carolina Air Quality Implementation Plan:

The Department of Health and Environmental Control (Department) proposes to amend the *South Carolina State Implementation Plan*, also known as the SIP. Interested persons are invited to present their views in writing to Frank Cramer; Division of Air Planning, Development and Outreach; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on Monday, December 29, 2003, the close of the comment period.

Synopsis:

On October 27, 1998, the United States Environmental Protection Agency (EPA) published a final rule titled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone." This rule, commonly referred to as the NO_x SIP Call, required South Carolina and certain other states to limit the summertime emissions of oxides of nitrogen (NO_x) which are one of the precursors of ozone pollution. EPA has stated in the rule that sources in these states emit NO_x in amounts that significantly contribute to non-attainment of the 1-hour National Ambient Air Quality Standard (NAAQS) for ozone in one or more down-wind states. The NO_x SIP Call required reductions of summertime emissions of NO_x in South Carolina and required the Department to submit a revision to the SIP that identified measures necessary to achieve these reductions. The Department promulgated regulations and submitted a SIP revision to comply with the requirements of the NO_x SIP Call on May 28, 2002. EPA published a final rule in the *Federal Register* approving this revision on June 28, 2002 (67 FR 43546).

One of the significant features of the NO_x SIP Call regulation is that it establishes a NO_x budget trading program. In accordance with the trading program, each state subject to the NO_x SIP Call rule is given a NO_x budget which the state then allocates to applicable sources, referred to as NO_x budget units, according to a formula specified in the regulations. NO_x budget units then have the flexibility to buy and sell budget allowances at their own discretion in order to comply with the regulation.

South Carolina's state trading program budget, as specified in section 96.40 of Regulation 61-62.96, *Nitrogen Oxides (NO_x) Budget Trading Program*, is 19,678 tons. According to section 96.41 of this regulation, the Department is required to reallocate the budget by April 1, 2004, and every five years thereafter. If the state fails to submit a revised budget to EPA by this date, the EPA will allocate the same number of NO_x allowances as were allocated for the preceding control period.

The Department is proposing to revise the SIP to amend the NO_x budget allowances. The Department intends to revise the NO_x budget allowances in accordance with the requirements specified in section 96.42 of the above-mentioned regulation.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication November 28, 2003, 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 Anderson County

Conversion of two (2) nursing home beds to two (2) rehabilitation beds resulting in a total of thirty (30) rehabilitation beds and ten (10) nursing home beds.

AnMed HEALTHSOUTH Rehabilitation Hospital

Anderson, South Carolina

Project Cost: \$-0-

Affecting Florence County

Construction of a twelve (12) bed inpatient hospice facility.

McLeod Regional Medical Center, McLeod Hospice and Palliative Care

Florence, South Carolina

Project Cost: \$5,406,657

Establish an outpatient narcotic treatment program (Methadone Treatment Center).

Starting Point of Florence

Florence, South Carolina

Project Cost: \$163,860

Affecting Greenville County

Addition of 2 ORs for a total of 4 ORs.

Patewood Surgery Center, LLC

Greenville, South Carolina

Project Cost: \$601,916

Affecting Horry County

Convert one endoscopy room to an operating room for a total of three operating rooms.

Seacoast Medical Center

Little River, South Carolina

Project Cost: \$88,500

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 November 28, 2003. "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 Anderson County

Conversion of two (2) nursing home beds to two (2) rehabilitation beds resulting in a total of thirty (30) rehabilitation beds and ten (10) nursing home beds.

AnMed HEALTHSOUTH Rehabilitation Hospital

Anderson, South Carolina

Project Cost: \$-0-

Replacement of the existing single-slice CT scanner with a multi-slice CT scanner.

Anderson Area Medical Center

Anderson, South Carolina

Project Cost: \$1,551,521

6 NOTICES

Affecting Florence County

Construction of twelve (12) bed inpatient hospice facility.
McLeod Regional Medical Center, McLeod Hospice and Palliative Care
Florence, South Carolina
Project Cost: \$5,406,657

Establish an outpatient narcotic treatment program (Methadone Treatment Center).
Starting Point of Florence
Florence, South Carolina
Project Cost: \$163,860

Conversion of 12 existing psychiatric beds to 12 general acute care beds at McLeod Regional Medical Center (MRMC) and the transfer of the remaining 23 psychiatric beds from MRMC to Wilson Medical Center for a total of 453 general acute care beds at MRMC and 49 general acute care beds and 23 psychiatric beds at Wilson Medical Center
McLeod Regional Medical Center of the Pee Dee, Inc.
Florence, South Carolina
Project Cost: \$4,947,500

Affecting Horry County

Convert one endoscopy room to an operating room for a total of three operating rooms.
Seacoast Medical Center
Little River, South Carolina
Project Cost: \$88,500

Affecting Lancaster County

Construction of an ambulatory surgery center with two (2) operating rooms and two (2) endoscopy procedure rooms (ORs) restricted to gastrointestinal procedures only.
Carolina Surgery Center, LLC
Fort Mill, South Carolina
Project Cost: \$6,740,350

Affecting Marlboro County

Construction of a ten (10) bed inpatient hospice facility.
Hospice of Marlboro County, Inc.
Bennettesville, South Carolina
Project Cost: \$2,986,300

Affecting Spartanburg County

Replacement of a single-slice CT scanner with a multi-slice CT scanner.
Spartanburg Regional Medical Center
Spartanburg, South Carolina
Project Cost: \$1,216,077

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Notice of Cancellation and Rescheduling of Public Hearing State Register Document No. 2873, Proposed Amendment of R.61-62.1, *Definitions and General Requirements*, of R.61-62, *Air Pollution Control Regulations and Standards*

The Department of Health and Environmental Control issued a Notice of Proposed Regulation for proposed amendment of R.61-62.1, *Definitions and General Requirements*, of R.61-62, *Air Pollution Control Regulations and Standards*, in the State Register on October 24, 2003, published as Document No. 2873. The Notice scheduled a Staff-Informational Forum for November 25, a write-in public comment that closed November 25, 2003, and a public hearing scheduled before the DHEC Board for December 11, 2003. Public comments received at the Staff-Informational Forum and during the public comment write-in period will be submitted by staff to the Department's Board for consideration at the public hearing to be held pursuant to S.C. Code Ann. § 1-23-111 as noticed below.

The public hearing scheduled pursuant to S.C. Code Ann. § 1-23-111 before the Department's Board for December 11, 2003, as published in the *State Register*, has been cancelled and rescheduled for January 8, 2004. The public hearing in January will be held at the regularly-scheduled Board meeting on January 8 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. Board items will be noticed in the Board's agenda to be published 24 hours in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulation.

The text of the proposed amendment of R.61-62.1 can be viewed on the S.C. Legislature On-Line Internet site at <http://www.scstatehouse/net/regs/2873.doc>.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Notice of Cancellation and Rescheduling of Public Hearing State Register Document No. 2871, Proposed Amendment of R.61-101, *Water Quality Certification*

The Department of Health and Environmental Control issued a Notice of Proposed Regulation identified as Document No. 2871 in the State Register October 24, 2003, for a proposed amendment of R.61-101, *Water Quality Certification*. The Notice scheduled a Staff-Informational Forum for November 18, 2003, a write-in public comment period that closed November 24, 2003, and a public hearing scheduled pursuant to S.C. Code Ann § 1-23-111 before the DHEC Board for December 11, 2003. Public comments received during the Forum and write-in public comment period will be submitted to the Department's Board for consideration at the public hearing as noticed below:

The public hearing scheduled pursuant to S.C. Code Ann. § 1-23-111 before the Department's Board for December 11, 2003, as published in the *State Register* October 24, 2003, has been cancelled and rescheduled for January 8, 2004. The public hearing in January will be held at the regularly-scheduled Board meeting on January 8 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. Board items will be noticed in the Board's agenda to be published 24 hours in advance of the meeting. Interested persons are invited to make oral or

8 NOTICES

written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulation.

The text of the proposed amendment of R.61-101 can be viewed on the S.C. Legislature On-Line Internet site at <http://www.scstatehouse/net/regs/2871.doc>.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act. Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and individuals listed below, please submit your comments in writing, no later than December 29, 2003 to:

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

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

Class I

Class II

ATC Associates, Inc. - Columbia

DEPARTMENT OF LABOR, LICENSING AND REGULATION BUILDING CODES COUNCIL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 6-9-60(C) of the 1976 Code of Laws of South Carolina, as amended, the South Carolina Building Codes Council intends to review and adopt the following building codes for use within the state:

Mandatory codes will include:

International Building Code, 2003 Edition;
International Residential Code, 2003 Edition;
International Fire Code, 2003 Edition;
International Plumbing Code, 2003 Edition;
International Mechanical Code, 2003 Edition;
International Fuel Gas Code, 2003 Edition;

International Energy Conservation Code, 2003 Edition.

Permissive codes will include:

International Property Maintenance Code, 2003 Edition;

International Existing Building Code, 2003 Edition.

The Council specifically requests comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Gary Wiggins, Board Administrator, at 110 Centerview Drive, 2nd Floor, Columbia, South Carolina, 29211-1329, (803) 896-4620.

10 DRAFTING

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Section 48-1-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control proposes to draft a new regulation that addresses the development of Total Maximum Daily Loads (TMDLs) for pollutants in water. Interested persons may submit comments to Ms. Kathy Stecker, Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on December 29, 2003, the close of the drafting comment period.

Synopsis:

Section 303(d) of the Federal Water Pollution Control Act (33 USC Section 1313(d)) requires States to establish the total loading that a water can receive without violating State water quality standards for waters that do not meet them.

The proposed regulation will define the term "Total Maximum Daily Load" and define the administrative appeal process for TMDLs. In addition, the Department is considering addressing the following in this regulation: establishment of TMDLs, public participation, issuance of TMDLs, implementation of TMDLs.

The public is invited to recommend additional issues for consideration.

Legislative review will be required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION

SOUTH CAROLINA BUILDING CODES COUNCIL

CHAPTER 9

Statutory Authority: 1976 Code Section 6-9-63

Notice of Drafting:

The Department of Labor, Licensing and Regulation, South Carolina Building Codes Council proposes to amend current Regulations 8-210 through 8-275 to conform to the statutory amendments to acts governing the Board for Barrier Free Design and the Building Codes Council. Interested persons may submit comments to Gary F. Wiggins, Administrator, South Carolina Department of Labor, Licensing, and Regulation, Manufactured Housing Board, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The South Carolina Building Codes Council proposes to amend current Regulations 8-210 through 8-275 to conform to the statutory amendments to acts governing the Board for Barrier Free Design and the Building Codes Council. Through several recent statutory amendments, the Building Codes Council was given additional duties. In addition, the duties and responsibilities of the Board for Barrier Free Design have been phased out and relegated to a standing committee of the Building Codes Council (2000, Act 303). The proposed regulatory amendments conform to those statutory amendments as well as provide general updated language.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
ENVIRONMENTAL CERTIFICATION BOARD
CHAPTER 23**

Statutory Authority: 1976 Code Section 40-23

Notice of Drafting:

The Department of Labor, Licensing and Regulation, South Carolina Environmental Certification Board proposes to amend current Regulations Chapter 51 to conform to the statutory amendments to acts governing the Environmental Certification Board. Interested persons may submit comments to Dona J. Caldwell, Administrator, South Carolina Department of Labor, Licensing, and Regulation, Environmental Certification Board, Post Office Box 11409, Columbia, South Carolina 29211-1409.

Synopsis:

The South Carolina Environmental Certification Board proposes to amend current Regulations Chapter 51 to conform to the statutory amendments to acts governing the Environmental Certification Board. The proposed regulatory amendments conform to those statutory amendments as well as provide general updated language.

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

Statutory Authority: 1976 Code Section 40-29-10

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation, Manufactured Housing Board proposes to amend Regulation 19-425. Interested persons may submit comments to David F. Bennett, Administrator, South Carolina Department of Labor, Licensing and Regulation, Manufactured Housing Board, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The Manufactured Housing Board proposes to amend current Regulation 19-425 to conform to the Manufactured Housing Practice Act (2001, Act 61). Proposed changes include criminal background checks and updated procedures.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS
CHAPTER 47**

Statutory Authority: 1976 Code Sections 40-47-20, 40-1-70.

Notice of Drafting:

The Board of Medical Examiners proposes to adopt a new Regulation, 81-95, to establish continued competency options for licensed physicians in this state. Written comments may be submitted to John Volmer, Board Administrator, at 110 Centerview Drive, 3rd Floor, Columbia, South Carolina, 29211-1289.

12 DRAFTING

Synopsis:

The purpose of the amendments is to establish continued competency options for licensed physicians. Periodic demonstration of continued competency provides assurance of current medical knowledge and proficiency of individual practitioners.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA BOARD OF PILOTAGE COMMISSION
CHAPTER 15**

Statutory Authority: 1976 Code Section 54-15-140

Notice of Drafting:

The Department of Labor, Licensing and Regulation, South Carolina Board of Pilotage Commission proposes to amend Regulation 136-013 and 136-030. Interested persons may submit comments to Randy Bryant, Assistant Deputy Director, South Carolina Department of Labor, Licensing, and Regulation, Office of Business and Related Services, South Carolina Board of Pilotage Commission, 110 Centerview Drive, Columbia, South Carolina 29210.

Synopsis:

The South Carolina Board of Pilotage Commission proposes to amend current regulations 136-013 and 136-030 to update and clarify requirements concerning appropriate physical and age limitations for pilots. The proposed changes include, but are not limited to, pilot and apprentice age limitations and physical examination required for continued licensure.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
RESIDENTIAL BUILDERS COMMISSION
CHAPTER 106**

Statutory Authority: 1976 Code Section 40-1-70, 40-59-70, 40-59-610, and 40-59-220.

Notice of Drafting:

The Department of Labor, Licensing and Regulation, Residential Builders Commission, proposes to repeal and amend regulations to address recent changes in the Residential Builders Practice Act (Act 359 of 2002). Interested persons may submit comments to Mr. Charles W. McAlister, Residential Builders Commission, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329. To be considered, comments must be received no later than 5:00 p.m. Friday, December 12, 2003 the close of the drafting comment period.

Synopsis:

During the 2002 General Assembly, the Residential Builders Practice Act (Section 40-59-5, et seq), was enacted (Act 359) amending Chapter 59 of Title 40. Proposed regulations repeal regulations included in statutory provisions. Remaining regulations were amended to conform to new requirements such as the new classification for Stucco Installers. An updated definition of Heating and Air Conditioning Installers and Repairers as well as licensure after examination will be included. For easy reference, current fees for services are compiled in a single section.

DEPARTMENT OF SOCIAL SERVICES**CHAPTER 114**

Statutory Authority: 1976 Code Sections 43-5-580(b), 20-7-852(A), et seq.

Notice of Drafting:

114-47-10 through 114-47-50. Child Support Guidelines.

Synopsis:

The South Carolina Department of Social Services proposes amending regulations concerning Child Support Guidelines in order to maintain compliance with State and federal law and regulations. The Family Support Act of 1988 [P.L. 100-485] requires that at least every four years the Guidelines be reviewed and updated to reflect the latest economic data on child-rearing costs. The Department is also required by State law to review the Guidelines at least every four years to ensure that their application results in adequate support award amounts [South Carolina Code of Laws, 1976 as amended, Sections 43-5-580(b) and 20-7-852].

Interested persons may submit comments to Mr. Larry J. McKeown, Child Support Enforcement Division, South Carolina Department of Social Services, Post Office Box 1469, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on December 31, 2003, the close of the drafting comment period.

Preliminary Fiscal Impact Statement:

The South Carolina Department of Social Services estimates there will be no additional costs incurred by the State and its political subdivisions in complying with the proposed amendments to Regulations 114-47-10 through 114-47-50.

DEPARTMENT OF NATURAL RESOURCES**CHAPTER 123**

Statutory Authority: 1976 Code Sections 50-11-105, 50-11-310, 50-11-520, 50-11-530, 50-11-2200 and 50-11-2210

Notice of Drafting:

The Department of Natural Resources proposes to amend Regulation 123-40, "Hunt Units and Game Management Area Regulations", Regulation 123-51, "Turkey Hunting Rules and Seasons" and establish Regulation 123-54, "Chronic Wasting Disease Carcass Importation Regulations". The subject of the proposed action to Regulations 123-40 and 123-51 is to amend the regulations to modify existing seasons and methods to allow additional hunting opportunity on wildlife management areas and to add new wildlife management areas. Proposed Regulation 123-54 is for the purpose of protecting the State's white-tailed deer resource from Chronic Wasting Disease. Any person interested may submit written comments to William S. McTeer, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

These amended regulations will allow the expansion of existing seasons and methods within the current season framework to allow additional opportunity on existing and new Wildlife Management Areas. The regulations set seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. The establishment of Regulation 123-54 will help to prevent the possible spread of Chronic Wasting Disease into South Carolina thus avoiding potential significant detrimental impacts on the State's deer resource.

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Document No. 2882
DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 28
Statutory Authority: 1976 Code Section 37-17-10 (F)

28-300. Prescription Drug Discount Cards

Preamble:

The Department proposes to add Regulation 28-300. The General Assembly passed legislation in 2001 requiring the registration of companies and individuals offering for sale discount prescription drug cards. These companies, through their agents, will offer plans to the public which will allow consumers to purchase prescription drugs at a discounted rate. The proposed regulation will address the administration of the registration process, including bonding requirements for companies and the setting of application fees for companies and individuals. Requirements for sales representative status are covered as well. The regulation also includes advertising disclosure requirements.

Notice of Drafting for the proposed amendment was published in the State Register on September 26, 2003. Comments were solicited for consideration in drafting the proposed regulation.

Section - by Section Discussion

28-300(A) Definitions

28-300(B) The Department is proposing requirements for companies selling prescription drug discount card plans in South Carolina. Companies must post a bond, provide financial statements and be in good standing to be registered. They must file annually and pay an eight hundred dollar filing fee.

28-300(C) The proposed regulation would require corporate officers to meet the same standards as individuals.

28-300(D) Persons selling by any means would be required to register.

28-300(E) Individuals would be required to meet a certain fitness standard. Criminal offenses, license revocations or administrative penalties may prevent one from becoming licensed. Filings must be made annually and a thirty-dollar filing fee is to be assessed.

28-300(F) Plans offered to the public must be made public and filed with the Department.

28-300(G) Advertising must not be deceiving and disclaimers cannot be less prominent than other terms. Advertisements must carry the name and address of the advertiser.

Notice of Public Hearing and Opportunity for Public Comment:

Should a public hearing be requested, the hearing will be held at the Commission on Consumer Affairs's meeting on January 13, 2004, at 2:00 p.m. in the Conference Room, Third Floor, 3600 Forest Drive, Columbia, S.C. 29205. Written comments may be directed to Helen Fennell, Chief Enforcement Attorney, Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250-5757, or e-mail Fennell@dca.state.sc.us, by December 31, 2003.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$25,000.00. Since fees are intended to offset administrative costs to the State and are based on experience with similar industries, impact should be minimal.

Statement of Need and Reasonableness:

Description of Regulation: Prescription Drug Discount Cards

Purpose: The proposed regulation will provide requirements for companies and individuals who sell prescription drug discount cards or plans to South Carolina citizens. Disclosure requirements for advertising are also to be implemented.

Legal Authority: 1976 Code Section 37-17-10 (F)

Plan for Implementation: Administrative.

Determination of Need and Reasonableness Based on all Factors Herein and Expected Benefits:

The regulation is intended to provide standards for licensing companies and individuals to sell prescription drug discount card services in South Carolina. Restrictions are placed on individuals with proven histories of criminal behavior or administrative misconduct. Advertising is required to be open and not misleading. Information on plans offered is required to be available to the public for comparison. Increased consumer protection and knowledge are the intended result.

Determination of Costs and Benefits: Fees assessed are set at levels intended to offset costs of administering the regulation and are based on prior experience.

Uncertainties of Estimates: Estimates are based on agency experience with similar industries. Should the number of filings vary greatly, estimates could change. However, since costs to the State are to be covered by proposed fees, impact should be negligible.

Detrimental Effect on the Environment and Public Health if the Regulation is not Implemented: None

Statement of Rational:

Section 37-17-10 (F) provides that in order to implement the specifics of licensing prescription drug discount card companies and their representatives, regulations must be promulgated by the Department as necessary to assist in administering the Act. With Regulation 28-300 in place, appropriate registration fees can be assessed by the agency to offset administrative costs, and standards can be set for prescription drug discount companies and their representatives in the application process.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

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Document No. 2875
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. Sections 59-5-60 (1990) and 59-25-110 (1990)

R 43-54. Additional Areas of Certification

Preamble:

The State Department of Education recommends that the State Board of Education repeal R 43-54. This regulation will be merged into R 43-62.

Section-by-Section Discussion

This regulation is being repealed and amended language merged into R 43-62.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 13, 2004, at 10:00 A.M. at the Rutledge Building, Basement Conference Room, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Janice Poda, Senior Director, Division of Teacher Quality, 500 Landmark Building, 3700 Forest Drive, Columbia, South Carolina 29204 or e-mail jpoda@scteachers.org. Comments must be received no later than 5:00 P.M. on December 29, 2003. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: There will be no increased costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115 (Supp. 2002).

DESCRIPTION OF REGULATION: R 43-54 (Supp. 2002), Additional Areas of Certification

Purpose: R 43-54, Additional Areas of Certification, is being repealed and amended language merged into R 43-62.

Legal Authority: The legal authority for the regulation are S.C. Code Ann. Sections 59-5-60 (1990), 59-25-110 (1990).

Plan for Implementation: The proposed repeal will be posted on the State Department of Education Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed repeal and addition of the regulation's amended text to R 43-62 will serve to further clarify requirements for additional areas of certification.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed repeal of South Carolina Regulation 43-54, if implemented, will have no effect on the environment and public health.

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

Statement of Rationale: The proposed repeal and addition of the regulation's amended text to Regulation 43-62 will serve to further clarify requirements for additional areas of certification.

Text:

REPEALED

Document No. 2876

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. §§ 59-5-60 (1990) and 59-25-110 (1990)

R 43-62. Requirements for Additional Areas of Certification

Preamble:

The State Department of Education recommends that the State Board of Education propose amendments to R 43-62 (to be codified in Supp. 2003), Requirements for Additional Areas of Certification, as indicated in the drafting notice of June 27, 2003. The proposed amendments clarify and strengthen certification requirements for individuals who are initially certified and desire to qualify for certification in additional areas.

The Notice of Drafting was published in the *State Register* on June 27, 2003.

Section-by-Section Discussion

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|--------------------------------|---|
| Section I(A) | The effective date for requiring standards-based add-on certification via approved programs is extended until July 1, 2009. |
| Section II | Areas of add-on certification [(A)–(R)] are listed, incorporating current usage or terminology, revising the format for consistency purposes, and other minor editorial changes. |
| 3. Section II(C) and (D) | Additional specialized preparation requirements are proposed for Early Childhood and Elementary Education, and provisions are included to assist qualified teachers in adding these areas in compliance with new certification grade spans. |
| 4. Section II(E), (J), and (O) | Endorsement requirements for teaching applied subjects in English, mathematics, and science are deleted. Requirements for teaching applied academic subjects are covered in State Department of Education document, |

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|--|---|
| | Positions and Acceptable Areas of Certification. |
| 5. Section II (E), (G), (J), (L), and (O), | Endorsement requirements for the International Baccalaureate program are deleted. This program is optional to school districts and is not required by State Board regulation. |
| 6. Section II | Certification requirements for Fine Arts are deleted and moved to Section V. |
| 7. Section II | Certification in Guidance Counselor is deleted since it is an advanced certification area and is included in R 43-64(B). |
| 8. Section II | Media Communication Specialist and Media Supervisor requirements are deleted. These requirements are no longer applicable. Requirements for Media Specialist are deleted here since this is an advanced certification area and is included in R 43-64(E). |
| 9. Section III | Areas of add-on certification are listed, incorporating current usage or terminology, revising the format of requirements for consistency purposes, and other minor editorial changes. |
| 10. Section III(G) | Speech-language Therapist is deleted here since it is an advanced certification area and is included in R 43-64(D). |
| 11. Section IV | Areas of add-on certification are listed, incorporating current usage or terminology, revising the format of requirements for consistency purposes, and other minor editorial changes. |
| 12. Section IV(B) and (C) | Clarification provided regarding individuals who must hold certification to teach computer programming. |
| 13. Section IV(E) | Certification in Health Science Technology deleted here since this certification does not require completion of a teacher education program. The area is included in R 43-63 under Computer-based Technology Education. |
| 14. Section V(A) | Requirements for the master's plus thirty credential classification are deleted since these are addressed in R 43-53 II(D). Requirements for Fine Arts are transferred from Section II(G) and inserted here. |

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 13, 2004, at 10:00 A.M. at the Rutledge Building, Basement Conference Room, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Janice Poda, Senior Director, Division of Teacher Quality, 500 Landmark Building, 3700 Forest Drive, Columbia, South Carolina 29204 or e-mail jpoda@scteachers.org. Comments must be received no later than 5:00 P.M. on December 29, 2003. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: There will be no increased costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Ann. Section 1-23-115 (Supp. 2002).

DESCRIPTION OF REGULATION: R 43-62 (to be codified in Supp. 2003) Requirements for Additional Areas of Certification

Purpose: R 43-62, Requirements for Additional Areas of Certification, is being amended to streamline and strengthen requirements for adding certification areas to existing certificates.

Legal Authority: The legal authority for the regulation are S.C. Code Ann. Sections 59-5-60 (1990), 59-25-110 (1990).

Plan for Implementation: The proposed amendments will be posted on the State Department of Education Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed amendments will serve to streamline and strengthen requirements for adding certification areas to existing documents.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendments to the South Carolina regulation on requirements for additional areas of certification, if implemented, will have no effect on the environment or public health.

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

Statement of Rationale: The proposed amendments will streamline and strengthen requirements for adding certification areas to existing certificates.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 2877

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: S.C. Code Ann. §§ 59-5-60 (1990) and 59-25-110 (1990)

R 43-64. Requirements for Initial Certification at the Advanced Level

Preamble:

The State Department of Education recommends that the State Board of Education propose amendments to R 43-64, Requirements for Initial Certification at the Advanced Level, as indicated in the drafting notice of June 27, 2003. The proposed amendments clarify certification requirements for individuals who desire to qualify for certification in instructional support areas at the Advanced Level.

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The Notice of Drafting was published in the *State Register* on June 27, 2003.

Section-by-Section Discussion

Areas of add-on certification at the advanced level are listed, incorporating current usage or terminology, revising the format of requirements for consistency purposes, and other minor editorial revisions.

1. Section (A)(3) Administrator certification is deleted since this certification applies only to district-level positions not requiring a S.C. educator's certificate.
2. Section I(C) This section is amended to clarify that superintendent certification requires completion of an approved preparation program.
3. Section I(D) This section is added to provide an alternative route for the certification of district superintendents.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 13, 2004, at 10:00 A.M. at the Rutledge Building Basement Conference Room, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Janice Poda, Senior Director, Division of Teacher Quality, 500 Landmark Building, 3700 Forest Drive, Columbia, South Carolina 29204 or e-mail jpoda@scteachers.org. Comments must be received no later than 5:00 P.M. on December 29, 2003. Comments received by the deadline will be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: There will be no increased costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness was determined by staff analysis pursuant to S.C. Code Ann. § 1-23-115 (Supp. 2002).

DESCRIPTION OF REGULATION: R 43-64 (to be codified in Supp. 2003), Requirements for Initial Certification at the Advanced Level

Purpose: R 43-64, Requirements for Initial Certification at the Advanced Level, is being amended to eliminate a certificate for certain district-level employees that is not required for accreditation purposes, and to clarify requirements for certification as a school superintendent.

Legal Authority: The legal authority for the regulation are S.C. Code Ann. §§ 59-5-60 (1990), 59-25-110 (1990).

Plan for Implementation: The proposed amendments will be posted on the State Department of Education Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed amendments will clarify certification requirements for certain district-level employees as well as for school superintendents.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed amendments to the South Carolina regulation on initial certificates at the advanced level, if implemented, will have no effect on the environment or public health.

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

Statement of Rationale: The proposed amendments will clarify certification requirements for certain district-level employees as well as for school superintendents.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 2878
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: S.C. Code Ann. § 59-29-170 (Supp. 2002)

43–220. Gifted and Talented

Preamble:

Regulation 43–220, Gifted and Talented, establishes the criteria for student eligibility in Gifted and Talented Programs and sets forth the program service and curriculum requirements. Academic and Artistic Gifted Programs are addressed in this regulation. The provisions of this regulation include, but are not limited to, program, identification of population to be served, staff, reporting, funding, and expenditures and accounting procedures.

Section-by-Section Discussion of Changes

II. ACADEMICS

A. Program

1. This section of the regulation outlines the expectations for academic programs. The addition of “written” plan articulates the need for districts to develop a plan that may be used for program accountability and program assessment.

4. The teacher/pupil ratios for approved program models are being increased to reflect current practices and needs based upon inadequate funding. The proposed changes are in keeping with the requests made regularly by districts for waivers in class size.

B. Identification of Population to be Served

7.c. (1) The qualifying score for Dimension A (Reasoning Abilities) is being raised from 90th national age percentile to 93rd national age percentile. This is slightly under two standard deviations above the mean which accommodates our definition of gifted and talented students.

7.c. (3)(a) The use of grade point average in Dimension C as evidence of academic performance would be limited to grades seven through twelve and the qualifying standard would be increased from 3.5 to 3.75 on a 4.0 scale. Grades for students enrolled in grades four and five are often inflated and may not accurately reflect

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intellectual or academic performance. Moreover, the level of work by which these grades were obtained may not accurately reflect advanced performance.

7.c. (3)(b) The assessment of academic performance in grades three through six (Dimension C) will be based on performance tasks for placement. These performance tasks (Project STAR, Student Task Assessments and Rubrics) were developed after the present regulation was approved. Presently, the regulation states that the performance standard is four points on a five point scale. Now it is possible to more accurately describe the standard on performance tasks that must be met to qualify in Dimension C.

8.c. Serious discrepancy exists across the state with regard to removal of students from gifted programs. While the responsibility for developing written procedures will remain with the districts, the Department will develop guidelines and criteria for these policies. Currently, many districts appear to be placing gifted students on probation or removing them from programs if their grades dip below a B in any subject area. This may be causing many students to be placed on probation before they have had the time to adjust to the demands of the workload of gifted and talented programs.

C. Staff

- 1.b. (2) This change clarifies the exception for waiver of the training program.
2. This change clarifies that professional development in gifted education must be provided annually for teachers in gifted and talented classes.

D. Reporting

Two additions are proposed relative to reporting that districts must do annually to the Department. Both are based upon the need for program accountability and program evaluation and come to the Department as a recommendation from recent research on our policies in the area of gifted and talented and from conversations with the Office for Civil Rights.

1. The Department will establish a format and a template that districts will use to submit a three-year plan for their local gifted and talented programs and update progress on the plan annually. Plans will be reviewed annually by the Department and written feedback will be provided to districts.

2. Districts will summarize annually and report to the Department performance of gifted and talented students on the Palmetto Achievement Challenge Tests (PACT), Advanced Placement (AP), and International Baccalaureate (IB) examinations. These data may prove useful in program evaluation as well as in accountability for gifted program services.

III. ARTISTIC

The artistic section of the gifted and talented regulation has never been amended. In order to reflect changes in arts education and to present the artistic program in a manner that is congruent with the academic program, this section has been reworked completely.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 13, 2004, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Wayne Lord, Office of Curriculum and Standards, 1429 Senate Street, B-10-A, Rutledge Building, Columbia, South Carolina 29201 or e-mail wlord@sde.state.sc.us. Comments must be received no later than 5:00 P.M. on December 29, 2003. Comments received by the deadline shall be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: None

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: R 43-220, Gifted and Talented

Purpose: Regulation 43-220, Gifted and Talented, is being amended. The amendments for academic gifted and talented programs address the development of written three-year plans that are updated annually, changes in class size, changes and clarification of qualifying criteria, clarification of staff qualifications, and professional development.

The amendments for artistic gifted and talented program restructure the artistic section to be parallel with the academic section, provide for reporting of data on artistic gifted and talented programs, and revise the audition procedures to reflect the current arts education standards and best practices.

Legal Authority: S.C. Code Ann. § 59-29-170 (Supp. 2002).

Plan for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

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

The need for the amendment of this regulation was determined through

- a study of data on students who qualify for services presently;
- recommendations from the Office for Civil Rights related to the Department's Resolution Agreement;
- a national research study (2003) on state policy for gifted education;
- a research study (2003) on students qualifying for gifted services based upon their scores on Project STAR (performance assessment);
- meetings with the State Superintendent's Advisory Committee for Gifted and Talented Programs;
- meetings with district gifted and talented coordinators; and
- a review of the current literature in gifted education.

DETERMINATION OF COSTS AND BENEFITS:

No additional costs are expected as a result of implementing the proposed amendments to the regulation.

UNCERTAINTIES OF ESTIMATES:

None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation does not have any effect on the environment or public health.

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

Statement of Rationale:

A copy of the detailed statement of rationale may be obtained by contacting Dr. Wayne Lord, Education Associate, Office of Curriculum and Standards, 1429 Senate Street, B-10-A, Rutledge Building, Columbia, South Carolina 29201. This rationale includes studies, reports, and statements of professional judgment.

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Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 2879
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: S.C. Code Ann. §§ 59-5-60 (1990), 59-18-1300 (Supp. 2002), 59-18-1310 (to be codified in Supp. 2003), 59-18-1510 (Supp. 2002), 59-139-05 *et seq.* (Supp. 2002), and 59-20-60 (Supp. 2002), and the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002).

43-261. District and School Comprehensive Planning

Preamble:

The State Board of Education proposes amending Regulation 43-261, District and School Comprehensive Planning. The proposed amendments are based on the work of an advisory committee of twenty-four district strategic planning coordinators. The amendments update the regulation to reflect the provisions of the Education Accountability Act of 1998, the federal No Child Left Behind Act of 2001, and recent amendments to the Early Childhood Development and Academic Assistance Act of 1993. Districts and schools are required to create new five-year district strategic plans and school renewal plans by April 30, 2005. The amendments to Regulation 43-261 are needed to provide guidance to districts and schools in the development of new plans that are clearly focused on accountability and the improvement of student academic performance, data-driven decision making, and continuous improvement.

The notice of drafting was published in the *State Register* on July 25, 2003.

Section-by-Section Discussion

The title of the regulation is changed from “District and School Comprehensive Planning” to “District and School Planning” to reflect a move from plans that describe everything a district or school plans to do to a plan that prioritizes and focuses on the improvement of student academic performance.

The former nine sections of the regulation are consolidated into two sections.

Section A: This section describes necessary components of district strategic plans and school renewal plans. The amendments consolidate information from other sections and shift the emphasis of planning from specific programs to an emphasis on accountability, data-driven decision making, and continuous improvement.

Section B: This section is removed and its requirement for School Improvement Councils to actively participate in the development of the school renewal plans is contained in amended Section A.

Section C: The information from this section regarding the review of district and school plans is contained in amended Section B.

Section D: This section on evaluation is removed, and information on the evaluation of the strategies in the plans and the coordination of funding from various sources is contained in amended Section A. References to prior years are deleted.

Section E: This section on district reports is removed, since recently added Section 59-18-1310 of the Education Accountability Act changes the reporting date and allows for the consolidation of the report with the district annual update.

Section F: This section on targeted technical assistance is removed as no longer necessary, since Section 59-18-1500 *et seq.* of the Education Accountability Act delineates the intervention and assistance that will be provided to low-performing schools and districts.

Section G: This section on monitoring is removed and addressed in revised Section B.

Section H: This section is removed as no longer needed, since waivers granted through strategic plans are to be addressed by amended Regulation 43-303, Flexibility Through Deregulation.

Section I: This section on guidelines is deleted and is replaced by the model planning process that is referenced in amended Section A.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 13, 2004, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Leonard McIntyre, Deputy Superintendent, Division of Professional Development and School Quality, 1429 Senate Street, Room 1102, Rutledge Building, Columbia, South Carolina 29201 or e-mail lmcintyr@sde.state.sc.us. Comments must be received no later than 5:00 P.M. on December 29, 2003. Comments received by the deadline shall be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: There will be no additional costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: R 43-261, District and School Comprehensive Planning

Purpose: Regulation 43-261, District and School Comprehensive Planning, is being amended. The proposed amendments update the regulation to reflect the provisions of the Education Accountability Act of 1998, the federal No Child Left Behind Act of 2001, and recent amendments to the Early Childhood Development and Academic Assistance Act of 1993. Districts and schools are required to create new five-year district strategic plans and school renewal plans by April 30, 2005. The amendments to Regulation 43-261 are needed to provide guidance to districts and schools in the development of new plans that are clearly focused on accountability and the improvement of student academic performance, data-driven decision making, and continuous improvement.

Legal Authority: S.C. Code Ann. §§ 59-5-60 (1990), 59-18-1300 (Supp. 2002), 59-18-1310 (to be codified in Supp. 2003), 59-18-1510 (Supp. 2002), 59-139-05 *et seq.* (Supp. 2002), and 59-20-60 (Supp. 2002), and the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002).

Plan for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

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DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: Districts and schools are required to create new five-year district strategic plans and school renewal plans by April 30, 2005. The amendments to Regulation 43-261 are needed to provide guidance to districts and schools in the development of new plans that are clearly focused on the improvement of student academic performance. The proposed amendments are based on the work of an advisory committee of twenty-four district strategic planning coordinators.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional costs to the state or its political subdivisions. The amended regulation will provide districts and schools with a better understanding of the requirements for meaningful plans.

UNCERTAINTIES OF ESTIMATES: There are no uncertainties of estimates.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation does not have any effect on the environment or public health.

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

Statement of Rationale: The proposed amendments reflect the work of an advisory committee of twenty-four district strategic planning coordinators and the review and recommendations of numerous State Department of Education personnel and the State Board of Education. The amendments provide alignment with the requirements of current state and federal law. The focus is on accountability and the improvement of student academic performance, data-driven decision making, and continuous improvement.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 2880
STATE BOARD OF EDUCATION
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Statutory Authority: S.C. Code Ann. §§ 59-5-60 (1990), 59-5-65 (Supp. 2002), 59-18-300 (Supp. 2002), 59-18-310(B) (Supp. 2002) and 59-18-320(C) (Supp. 2002)

R 43-262.4. End-of-Course Tests

Preamble:

The regulation is being amended to remove course numbers that may be inaccurate and are subject to change. The amendments also clarify that eligible examinees are those students who are enrolled in courses that cover the content standards for the gateway courses irrespective of course titles, numbers or grade level in school.

Section-by-Section Discussion

Section A Removes course numbers that may be inaccurate and are subject to change and also clarifies that eligible examinees are those students who are enrolled in courses that cover the content standards for the gateway courses irrespective of course titles, numbers or grade level in school.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 13, 2004, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Teri Siskind, Office of Assessment, Division of Curriculum Services and Assessment, 1429 Senate Street, Rm. 607E, Rutledge Building, Columbia, South Carolina 29201 or e-mail tsiskind@sde.state.sc.us. Comments must be received no later than 5:00 P.M. on December 29, 2003. Comments received by the deadline shall be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: None

Statement of Need and Reasonableness: To ensure course content, and not course numbers, will drive the End-of-Course Examination Program (EOCEP) since numbers are subject to change.

DESCRIPTION OF REGULATION: R 43-262.4, End-of-Course Tests

Purpose: Regulation 43-262.4, End-of-Course Tests, is being amended. The proposed amendments to R 43-262.4 are intended to update the regulation to remove course numbers that may be inaccurate and are subject to change and to clarify that eligible examinees are those students who are enrolled in courses that cover the content standards for the gateway courses irrespective of course titles, numbers of grade level in school.

Legal Authority: S.C. Code Ann. §§ 59-5-60 (1990), 59-5-65 (Supp. 2001), 59-18-300 (Supp. 2001), 59-18-310(B) (Supp. 2001) and 59-18-320(C) (Supp. 2001).

Plans for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: To ensure course content, and not course numbers, will drive the End-of-Course Examination Program (EOCEP) since numbers are subject to change.

DETERMINATION OF COSTS AND BENEFITS: None

UNCERTAINTIES OF ESTIMATES: None

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

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Statement of Rationale:

A copy of the detailed statement of rationale may be obtained by contacting Dr. Teri Siskind, Director, Office of Assessment, 1429 Senate Street, Rm. 607E, Rutledge Building, Columbia, South Carolina 29201.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 2881
STATE BOARD OF EDUCATION
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Statutory Authority: S.C. Code Ann. §§ 59-18-1110 and 59-18-1120 (Supp. 2002)

R 43-303. Flexibility Through Deregulation Program

Preamble:

The State Department of Education recommends that the State Board of Education propose amendments to R 43-303, Flexibility Through Deregulation Program, as indicated in the drafting notice of July 25, 2003. The amendments align the regulation with the Education Accountability Act, S.C. Code Ann. §§ 59-8-1110 and 59-18-1120 (Supp. 2002).

Section-by-Section Discussion

Section I	Revises the authority of the State Board of Education to grant flexibility of receiving exemptions from certain regulations and statutes. Revises program guidelines developed by the State Board of Education in consultation with the Education Oversight Committee. Addresses termination of former flexibility status.
Section II	Student performance eligibility criteria is moved to a new section. This section identifies the implementation date for the regulation and summarizes the categories of schools eligible to receive flexibility.
Section II(B)(1)	Adds a section to address the student performance eligibility criteria for schools receiving flexibility.
Section II(B)(2)	Adds a section to address eligibility criteria for unsatisfactory schools.
Section II(B)(3)	Adds a section to address eligibility criteria for schools through school plans.
Section III	Revises the impact of grade reorganization on flexibility status.
Section IV	Revises State Board of Education notification of flexibility status to schools to include two new categories.
Section V	Rewords option of local boards not to accept flexibility status.
Section VI(A)	Revises the requirements for program continuation for schools receiving flexibility based on student performance.

Section VI(B)	Adds a section to address the requirements for continued flexibility status for unsatisfactory schools.
Section VI(C)	Adds a section to address the requirements for continued flexibility status for schools through school plans.
Section VII	Revises application for extension of status for schools that do not re-qualify.
Section VIII	Revises exception statements.
Section IX	Rewords the resumption of regulatory and statutory requirements.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on January 13, 2004, at 10:00 A.M. at the Rutledge Building, State Department of Education, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and as a courtesy are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Dr. Leonard McIntyre, Room 1102, Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201 or e-mail lmcintyr@sde.state.sc.us. Comments must be received no later than 5:00 P.M. on December 29, 2003. Comments received by the deadline shall be submitted to the Board in a summary of public comments and department responses for consideration at the public hearing.

Preliminary Fiscal Impact Statement: There will be no increased costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: R 43-303, Flexibility Through Deregulation

Purpose: Regulation 43-303, Flexibility Through Deregulation Program is being amended. New eligibility criteria for schools that may receive flexibility from certain regulations and statutes are established, and the continuation and removal from flexibility status is also addressed. The regulation establishes the conditions for which an unsatisfactory school or other schools through school plans may receive flexibility from regulation or statutes.

Legal Authority: Statutory Authority: S.C. Code Ann. §§ 59-18-1110 and 59-18-1120 (Supp. 2002).

Plan for Implementation: The proposed amendments will be posted on the State Department of Education's Web site for review and comment. The amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The statement of need and reasonableness was determined by staff review of the Education Accountability Act, S.C. Code Ann. §§ 59-8-1110 and 59-18-1120 (Supp. 2002).

DETERMINATION OF COSTS AND BENEFITS: None

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UNCERTAINTIES OF ESTIMATES: None

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation does not have any effect on the environment or public health.

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

Statement of Rationale:

The proposed amendments will align the regulation with the provisions of the Education Accountability Act, S.C. Code Ann. §§ 59-8-1110 and 59-18-1120 (Supp. 2002).

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 2883
DEPARTMENT OF TRANSPORTATION
CHAPTER 63
Statutory Authority: 1976 Code Section 57-25-170

63-338 Specific Information Service Signing

Preamble:

The South Carolina Department of Transportation proposes to amend 63-338 to provide for a bid solicitation and selection process at intersections where the number of qualifying businesses exceeds the available spaces on the service panel and to delete the requirement that an attraction must have public telephones to qualify for participation on an Attraction service panel.

Notice of Drafting for the proposed amendment was published in the State Register on October 31, 2003.

Section-by-Section Discussion:

<u>SECTION CITATION:</u>	<u>EXPLANATION OF CHANGE:</u>
63-338 D	Subsection 5, which provides for a potential increase in the number of business signs displayed on a single panel, is deleted and the other subsections renumbered. This change is made to conform with federal requirements which will not allow the increase.
63-338 E(5)-(7)	Subsections 5-7 are amended to provide for a bid solicitation and selection process at intersections where the number of qualifying businesses exceeds the available spaces on the service panel.
63-338 I(e) (2)	Subsection is amended to delete the reference to hiking and picnicking under Amusement Parks because those activities are covered under Recreational Areas. The reference to the SCMUTCD publication is deleted because that publication

is obsolete. The requirement that public telephones be available at a zoological or botanical park is deleted to conform with federal guidelines.

63-338

In Subsections (C) and (I) of the proposed regulation, changes are proposed to correct scrivener's errors in the existing regulations.

Notice of Public Hearing and Opportunity for Public Comment:

Should a public hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code of Laws, as amended, such a hearing will be conducted at 955 Park Street, Columbia, SC, in January 2004. Written comments or requests for a hearing may be directed to Deborah Brooks Durden, Governmental Liaison, PO Box 191, Columbia, SC 29202. To be considered, comments should be received no later than December 29, 2003.

Preliminary Fiscal Impact Statement:

The Department of Transportation estimates that the competitive bid process proposed in these regulations will increase the annual logo program revenues by \$175,000 to \$450,000.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 63-338. Specific Information Service Signing.

Purpose: Set Standards for the placement of devices which give specific information in the interests of the traveling public regarding gas, food, lodging, and camping and attraction services.

Legal Authority: The legal authority for Regulation 63-338 is Section 57-25-170, 1976 S.C. Code of Laws.

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

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

The proposed amendments will benefit the public by allowing more businesses to participate in the Specific Information Service Signing program. Businesses that have previously been excluded from the program will have an opportunity to participate.

DETERMINATION OF COSTS AND BENEFITS: There will be no costs to the State imposed by these changes. Costs will be incurred by qualifying businesses which agree to participate.

UNCERTAINTIES OF ESTIMATES: Uncertainties in the estimate of the fiscal impact of the amendment exist because any increase in revenue will be determined by what the affected businesses bid. It is possible that there may be no increase in revenue under the proposed bid process.

EFFECT ON ENVIRONMENTAL AND PUBLIC HEALTH: None.

DETRIMENTAL EFFECTS ON THE ENVIRONMENTAL AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: None.

Fiscal Impact Statement:

The Department of Transportation estimates that the competitive bid process proposed in these regulations will increase the annual logo program revenues by \$175,000 to \$450,000. Uncertainties in the estimate of the fiscal

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impact of the amendment exist because any increase in revenue will be determined by what the affected businesses bid. It is possible that there may be no increase in revenue under the proposed bid process.

Final Assessment Report Summary Prepared by the Office of Research and Statistics of the S. C. Budget and Control Board:

None.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 2851
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: S.C. Code Ann. §§ 59-5-60 (1990) and 59-25-110 (1990)
 No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002)

R 43-53. Credential Classification

Synopsis:

The State Department of Education recommends that the State Board of Education promulgate amendments to R 43-53, Credential Classification, to further clarify the types of educator credentials and align South Carolina's regulation on credentials with the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002).

The proposed amendments clarify the types of credential classifications acceptable under No Child Left Behind, including the addition of an international and an internship credential. The proposed amendments also clarify the phase-out process for certain credentials under No Child Left Behind.

The Notice of Drafting was published in the *State Register* on June 27, 2003.

Section-by-Section Discussion

Section I(A) Clarification is inserted relative to the pedagogy examination requirement for the initial certificate.

Section I(B) No changes.

Section I(C) Clarification is inserted relative to the initial issuance and renewal of the alternative route certificate.

Section I(D) New language is inserted to allow for the issuance of an international certificate to applicants from other countries. This credential complies with acceptable credentials under No Child Left Behind.

Section I(E) New language is inserted to allow for the issuance of an internship certificate for individuals who have completed all degree and examination requirements of an approved teacher training program, except for the required internship. This certificate will also accommodate individuals who previously were issued temporary certificates in school psychology and speech-language pathology formerly specified in D(4) and D(5). The internship certificate is an acceptable certificate under No Child Left Behind.

Section I(F) The text is revised to further clarify types of temporary certificates that will be limited or phased out under No Child Left Behind. Sections that were formerly D(4) and D(5) have been deleted and incorporated in Section I(E)

Section II No changes.

Section III No changes.

Instructions:

Amend in its entirety R 43-53, Credential Classification, to Chapter 43 regulations.

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Text:

43-53. Credential Classification

The classification of an educator's credential is determined by a combination of factors, including his or her formal education, performance, professional development, and teaching experience.

I. Types of Credential Classification

A. Initial Certificate

An initial certificate is valid for three years. Beyond the initial three-year validity period, teachers who do not yet meet the requirements for professional certification, but who are employed by a public school district at the provisional or annual contract level, as defined in S.C. Code Ann. Section 59-26-40, may have their certificates renewed annually at the request of the employing school district.

Teachers who hold initial certificates and are employed in a nonpublic school educational setting may have their certificates renewed annually for an indefinite period at the request of the educational entity, provided that certificate renewal requirements, as specified in R 43-55 (Renewal of Credentials) are met every five years.

Teachers who hold initial certificates but who are not employed by a public school district in a position requiring certification at the time the initial certificate expires, and who have not otherwise met the requirements for professional certification, may reapply for an initial certificate at such time as they become employed by a public school district or private school, subject to the requirements for initial certification in effect at the time of reapplication. To qualify for an initial certificate, the applicant must fulfill the following requirements:

1. Earn a bachelor's or master's degree either from an institution that has a state-approved teacher education program and is accredited for general collegiate purposes by a regional accreditation association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education, or from an institution that has programs approved for teacher education by the National Council for Accreditation of Teacher Education (NCATE). Professional education credit must be earned through an institution that has a teacher education program approved for initial certification.

2. Submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will also be required for the initial certification. Until that date, the general professional knowledge (pedagogy) exam will be required only for the professional certification.

3. Undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigation. If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the State Board of Education and be approved before a certificate may be issued. Background checks from other states or agencies are not transferable to South Carolina.

B. Professional Certificate

All professional certificates are valid for five years. To qualify for each successive level of professional certification (bachelor's degree, bachelor's degree plus 18 hours, master's degree, master's degree plus 30 hours, and doctorate), an applicant must

1. meet all criteria for initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval and successfully complete the induction program, the ancillary requirements (including any additional testing requirements approved by the State Board of Education), and the formal evaluation approved by the State Board of Education

OR

2. successfully complete the requirements for reciprocity according to Interstate Agreement on Qualifications of Educational Personnel

OR

3. hold a valid National Board teaching certification.

C. Alternative Route Certificate

The alternative route certificate is valid for one year initially. The certificate will be issued to those individuals who qualify under the Program for Alternative Certification for Educators (PACE) guidelines as adopted by the State Board of Education. Alternative certificates can be renewed twice on the basis of successful completion of annual program requirements as approved by the State Board of Education.

The teacher will be eligible for a professional certificate upon his or her successful completion of all program requirements within the three-year program period, including additional testing requirements approved by the State Board of Education and the formal evaluation approved by the State Board of Education.

D. International Certificate

An International Certificate may be issued to a teacher from a country outside of the United States provided the individual has completed at least a bachelor's degree with a major in the teaching field. Organizations that recruit and select teachers from other countries to teach in South Carolina must assure that all cultural/educational visa requirements have been met. The International Certificate will be renewed annually for up to three years at the request of the local school district, provided the teacher has met the certification examination requirements specified by the State Board of Education during the first year of certification.

E. Internship Certificate

1. The Internship Certificate will be issued to individuals who are currently enrolled in a State Board of Education approved teacher education program in South Carolina and have completed all academic and bachelor's degree requirements, with the exception of the teaching internship, as well as all certification examination requirements. The certificate will be issued for up to one year, and must be requested by the employing school district. Upon completion of the teaching internship and verification by the college or university that all approved program requirements have been met, the internship certificate will be converted to an initial certificate.

2. The Internship Certificate will also be issued to any individual who is serving the required internship for certification as a School Psychologist I or II under the supervision of a certified School Psychologist II or III, or who is serving the required internship for School Psychologist III under the supervision of a certified School Psychologist III.

The applicant for the Internship Certificate in School Psychology must submit official written verification from the college or university that he or she is currently enrolled and working toward full certification as a school psychologist, and that the internship is being served through a State Board of Education-approved training program. The Internship Certificate may be renewed once on the basis of written documentation from the director

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of the school psychology program that the applicant is a full-time student in the program during the second year of the renewed certificate.

3. The Internship Certificate will also be issued to any individual who holds the Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Hearing Association (ASHA) or who has completed a master's degree that includes the academic and clinical requirements for the ASHA Certificate of Clinical Competence and has achieved the minimum qualifying score on the required certification examination(s). The certificate will be effective for one academic year and must be requested by the employing school district. The Internship Certificate may be converted to a professional certificate upon verification of a successful evaluation of the individual's performance during the initial year of employment.

F. Temporary Certificate

A temporary certificate is valid for a period of one year. Full certification (initial or professional) may be obtained when the educator submits verification of the required course work, required practicum, and/or required certification examination scores. Due to the requirements for highly qualified teachers mandated by the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002), the following types of temporary certificates may be issued only until June 30, 2006, and will be limited or phased out after that date.

1. Temporary Certificate for Out-of-State Certified Teacher

(a) Any individual who holds a valid teaching certificate from another state but does not meet one or more of South Carolina's certification requirements is eligible for a temporary certificate for up to one year. Temporary certificates issued to out-of-state certified teachers are issued only for the academic year in which they are requested and expire June 30.

(b) After June 30, 2006, temporary certificates may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Temporary certificates may be issued, however, in other instructional or instructional support fields not considered to be core content subjects under No Child Left Behind.

2. Transitional Certificate

Any individual who has completed a teacher preparation program but has not submitted a passing score on the required certification examination(s) will be eligible for a transitional certificate for up to one year. Transitional certificates are issued only at the request of the employing school district. The employing district must apply for a transitional certificate no later than thirty days after the date of assignment. Transitional certificates are issued only for the academic year in which they are requested and expire June 30. The transitional certificate will no longer be issued after June 30, 2006.

3. Out-of-Field Permit

(a) Any individual who holds a valid South Carolina temporary, professional, initial, alternative, graded, or warrant certificate and is assigned teaching duties for any amount of time in an area for which he or she is not appropriately certified is eligible to receive a permit to teach out-of-field. However, permits are not issued for school psychologists, speech-language therapists, and special subject educators. Out-of-field permits are issued only under the following conditions:

(i) The school district must request the out-of-field permit for its employee. The employing district must apply for a permit no later than thirty days after the date of assignment. Out-of-field permits are issued only for the academic year in which they are requested and expire June 30.

(ii) The individual for whom the permit is requested must hold a valid South Carolina teaching credential and have twelve semester hours of credit toward full certification in the area of preparation for which the permit is requested.

(b) Out-of-field permits may be renewed upon presentation of six semester hours of credit in the area for which the permit is issued. Once the teacher meets all the certification requirements, including the required certification examination(s), he or she may apply for a certificate in the new area.

(c) After June 30, 2006, out-of-field permits may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Permits may be issued, however, in other instructional or instructional support fields not considered to be core content subject areas under No Child Left Behind.

4. Graded Certificate and Warrant

The State Board of Education discontinued the issuance of graded certificates on July 1, 1971, and the issuance of warrants in November 1976. Due to the requirements of the No Child Left Behind Act of 2001 for highly qualified teachers, neither warrants nor graded certificates with less than a grade of A will be acceptable certificates for teaching in a South Carolina public school after June 30, 2006.

a. Graded Certificate. To qualify for the professional certificate, an individual who currently holds a grade B, C, or D certificate must fulfill one of the following requirements:

(i) achieve the minimum required score on the required specialty area examination(s)

OR

(ii) add an area of certification to the initial graded certificate by meeting all requirements of the State Board of Education for that additional area, including a minimum qualifying score on the appropriate certification examinations(s) and verification of at least three years of teaching experience in the additional area.

b. Warrant. Current warrant certification cannot be advanced beyond the bachelor's degree level or beyond four years of experience. Only a bachelor's degree-level certification may be added to a warrant certification. To qualify for a professional certificate or to maintain a warrant certification (until June 30, 2006), the individual must

(i) earn the required six semester hours or the equivalent every five years, as stipulated in certificate renewal requirements, and

(ii) remove all certification deficiencies (specialty area examination(s) and/or course requirements) by meeting current certification requirements.

5. Special Subject Certificate

A Special Subject Certificate may be issued to an individual who qualifies under the guidelines established by the State Board of Education and must be requested by the employing school district. The certificate will be issued initially for one year but may be renewed annually provided the applicant submits the required score on the appropriate certification examination(s) in the content area in which he or she is teaching during the initial year of certification. After June 30, 2006, special subject certificates may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics,

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government, economics, history, geography, and the arts. Special subject certificates may be issued, however, in other instructional fields not considered to be core content subjects under No Child Left Behind.

II. Levels of Credential Classification

A. Bachelor's degree: the educator must meet all criteria for an initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval.

B. Bachelor's degree plus 18 hours: the educator must have 18 hours of graduate credit that he or she earns within seven years from the time the course work is started. Individuals who do not complete the requirements during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

C. Master's degree: the educator must have earned a master's degree that meets State Board of Education regulations for teacher certification and program approval.

D. Master's degree plus 30 hours:

In order to advance to the level of master's degree plus 30 hours, the educator must fulfill either one of the following requirements:

1. The educator must earn 30 semester hours of graduate credit above the master's degree with 21 hours of the graduate credit in one area of concentration. These hours may or may not be in the teacher's initial area of certification. The course work must be completed within seven years from the time it was started. Individuals who do not complete the course work during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

OR

2. The educator must earn an additional master's degree or specialist's degree that meets State Board of Education regulations for teacher certification and program approval.

E. Doctorate: the teacher must have earned a doctoral degree that meets the State Board of Education regulations for teacher certification and program approval.

III. Requirements for Credential Advancement

A. To advance his or her credential from one classification to another, the applicant must submit to the Office of Teacher Certification the following:

1. written request to have the certificate advanced on the designated Office of Teacher Certification action form;

2. Documentation, including transcripts, that State Board of Education requirements have been met for certificate advancement.

3. The specified fee, if such a fee is currently being charged.

B. The effective date of the credential advancement will be based on the following:

1. If the applicant becomes eligible for a revised level of credential between November 1 and April 30, the credential will become valid either from the date the teacher submits the completed application with all the necessary documentation or from the date on which the teacher completes the requirements for the credential,

provided that the teacher files his or her application in the Office of Teacher Certification within forty-five calendar days after the date on which he or she completes the requirements.

2. If the applicant becomes eligible for a revised level of credential after April 30, the credential will become valid on July 1 of the calendar year in which he or she completes the existing requirements, provided that the completed application is submitted on or before November 1.

Fiscal Impact Statement: There will be no increased costs to the state or its political subdivisions.

Document No. 2852
STATE BOARD OF EDUCATION
 CHAPTER 43
 Statutory Authority: S.C. Code Ann. § 59-5-60 (1990)
 and 20 U.S.C. § 6301 et seq. (2002)

43-209. Nonprofessional/Paraprofessional Personnel Actions

Synopsis:

The State Department of Education recommends that the State Board of Education promulgate amendments to R 43-209, Nonprofessional/Paraprofessional Personnel Actions to add further qualifications for paraprofessionals as required by the federal No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002).

The Notice of Drafting was published in the *State Register* on June 27, 2003.

Section-by-Section Discussion

Section (A) Wording changes are made to reflect current terminology usage. Formatting changes are made to reflect current style preference.

Section (B) New language is inserted to add the qualifications for paraprofessionals in Title I schools and Title I targeted assistance programs required by the No Child Left Behind Act (NCLB). Current, remaining qualifications are reorganized. New language is also added regarding the establishment of a paraprofessional registry. Formatting changes are made to reflect current style preferences.

Instructions:

Amend in its entirety R 43-209, Nonprofessional/Paraprofessional Personnel Positions, Qualifications, and Duties, to Chapter 43 regulations.

Text:

43-209- Support Personnel/Paraprofessional Personnel Positions, Qualifications and Duties

A. Support personnel positions for school district superintendents and school principals

1. Secretarial services shall be provided.
2. Custodial services shall be provided.

B. Paraprofessional personnel positions

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1. Each teacher of trainable, orthopedically, emotionally, or visually disabled pupils in a self-contained classroom model shall have a paraprofessional full time, provided that the class has a minimum membership of four pupils.

2. Each teacher of a kindergarten unit shall have a paraprofessional full time.

C. Paraprofessional Personnel Qualifications and Duties

1. Paraprofessionals helping with classroom instruction or programs shall meet the following requirements:

a. All instructional paraprofessionals must be at least 18 years of age.

b. All instructional paraprofessionals must have at least a high school diploma or state equivalency certificate.

c. Instructional paraprofessionals who work in a Title I school or a Title I targeted assistance program and who were hired after January 8, 2002, must either

(1) hold a two-year associate's degree from an accredited institution, or

(2) have completed two years (60 semester hours) of college coursework from an accredited institution, or

(3) have passed a state-approved examination of content knowledge and pedagogy.

d. Instructional paraprofessionals who work in a Title I school or a Title I targeted assistance program and who were hired before January 8, 2002, must meet the requirements listed in C.1.c. by January 8, 2006.

e. All instructional paraprofessionals must work under the direct supervision of a certified teacher.

f. All instructional paraprofessionals must participate in preservice and inservice training programs for instructional paraprofessionals.

2. The State Department of Education will maintain an electronic registry of instructional paraprofessionals that indicates whether the instructional paraprofessional has met the requirements listed in C.1.c.

Fiscal Impact Statement: NCLB Title II A funds are being used to provide technical assistance to districts to monitor their compliance with the new paraprofessional requirements as well as to develop the paraprofessional registry.

Document No. 2853
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: S.C. Code Ann. §§ 59-5-65 (Supp. 2002), 59-65-90 (1990), No Child Left Behind Act of 2001, 20 U.S.C. § 7112 (2002), and the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. § 5601 *et seq.* (2002).

43-274. Student Attendance

Synopsis:

The State Department of Education (SDE) recommends that the State Board of Education propose amendments to R 43-274, Student Attendance, as indicated in the drafting notice of June 27, 2003. The proposed amendments define truancy, clarify intervention requirements, and clarify the procedure for referring a student to Family Court for failure to attend school.

1. The proposed amendments define the term “truancy” to ensure the accurate and uniform collection of truancy rates on a school-by-school basis as required by the No Child Left Behind Act of 2001, 20 U.S.C. § 7112 (c)(3)(2002).
2. The proposed amendments clarify intervention requirements in accordance with S.C. Code Ann. § 59-65-90 (1990) by providing more definitive wording and guidance in developing and implementing appropriate written intervention plans to improve student attendance.
3. The proposed amendments align South Carolina’s regulation with the requirements of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP), 42 U.S.C. § 5601 *et seq.* (2002) by clarifying the referral procedure for truants to Family Court for an initial probable cause hearing or violation hearing.

The Notice of Drafting was published in the *State Register* on June 27, 2003.

Section-by-Section Discussion

1. Section A The text is revised to include more definitive wording regarding lawful and unlawful absences. The text is taken from the guidelines section located at the end of the original regulation. Section A (2) regarding intervention plans and referrals has been deleted from this section, and this text has been revised and moved to Sections C and D.
2. Section B The text is revised to include a uniform definition of truancy to comply with the requirements of the No Child Left Behind Act of 2001 in the collection of truancy rates on a school-by-school basis. The section also includes definitions for “habitual” and “chronic” truancy and outlines the correct procedure for attendance referrals to Family Court. The approval for absences in excess of 10 days and approval of credit section has been revised and moved to Section G.
3. Section C This text is revised to provide more guidance to school officials in completing written intervention plans. This section reflects the original text located previously at the end of the regulation. Some revisions have been made to provide additional clarification regarding the development of the plan. The guidelines section has been moved to Section I.
4. Section D The text includes language originally found in Section A and in the guidelines section of the regulation regarding judicial intervention. The original text has been revised to provide further clarification regarding the correct referral process for truants to Family Court. This section has been added to align this regulation with the requirements of JJDP.
5. Section E This section has been added to encourage school districts to work in collaboration with the South Carolina Department of Juvenile Justice to establish a system of graduated sanctions and community-based alternatives prior to referring a child to Family Court for failure to attend school.
6. Section F This section contains revisions of the text previously found in the guidelines section of the original regulation.

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7. Section G This section contains revisions of the text previously found in Section B and the guidelines section of the original regulation.

8. Section H This section has been added to include information regarding the reporting requirements of truancy rates in accordance with the No Child Left Behind Act of 2001.

9. Section I This section includes information on the SDE Guidelines found in Section C of the original regulation.

Instructions: Replace in its entirety R 43-274, Student Attendance, to Chapter 43 regulations.

Text:

43-274. Student Attendance

A. Lawful and Unlawful Absences

School districts must adopt policies to define and list lawful and unlawful absences.

1. Lawful absences include but are not limited to

a. absences caused by a student's own illness and whose attendance in school would endanger his or her health or the health of others,

b. absences due to an illness or death in the student's immediate family,

c. absences due to a recognized religious holiday of the student's faith, and

d. absences due to activities that are approved in advance by the principal.

2. Unlawful absences include but are not limited to

a. absences of a student without the knowledge of his or her parents, or

b. absences of a student without acceptable cause with the knowledge of his or her parents.

3. Suspension is not to be counted as an unlawful absence for truancy purposes.

B. Truancy

The State Board of Education recognizes that truancy is primarily an educational issue and that all reasonable, educationally sound, corrective actions should be undertaken by the school district prior to resorting to the juvenile justice system.

1. Truant

A child ages 6 to 17 years meets the definition of a truant when the child has three consecutive unlawful absences or a total of five unlawful absences.

2. Habitual Truant

A "habitual" truant is a child ages 12 to 17 years who fails to comply with the intervention plan developed by the school, the child, and the parent(s) or guardian(s) and who accumulates two or more additional unlawful absences. This child may need court intervention and an initial truancy petition may be filed. The

written intervention plan, and documentation of non-compliance, must be attached to the truancy petition asking for court intervention.

3. Chronic Truant

A “chronic” truant is a child ages 12 to 17 years who has been through the school intervention process, has reached the level of a “habitual” truant, has been referred to Family Court and placed on an order to attend school, and continues to accumulate unlawful absences. Should other community alternatives and referrals fail to remedy the attendance problem, the “chronic” truant may be referred to the Family Court for violation of a previous court order. All school intervention plans existing to this point for this child and family must accompany the Contempt of Court petition as well as a written recommendation from the school to the court on action the court should take.

4. Intervention Plans

1. Each district must develop a policy relating to requirements for intervention. The district plan for improving students' attendance must be in accordance with any applicable statutes.

2. Once a child is determined to be truant as defined in Section B(1), school officials must make every reasonable effort to meet with the parent(s) or guardian(s) to identify the reasons for the student’s continued absence. These efforts should include telephone calls and home visits, both during and after normal business hours, as well as written messages and e-mails. School officials must develop a written “intervention plan” to address the student’s continued absence in conjunction with the student and parent(s) or guardian(s).

3. The intervention plan must include but is not limited to

- a. Designation of a person to lead the intervention team. The team leader may be someone from another agency.
- b. Reasons for the unlawful absences.
- c. Actions to be taken by the parent(s) or guardian(s) and student to resolve the causes of the unlawful absences.
- d. Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.
- e. Actions to be taken by intervention team members.
- f. Actions to be taken in the event unlawful absences continue.
- g. Signature of the parent(s) or guardian(s) or evidence that attempts were made to involve the parents(s) or guardian(s).
- h. Documentation of involvement of team members.
- i. Guidelines for making revisions to the plan.

4. School officials may utilize a team intervention approach. Team members may include representatives from social services, community mental health, substance abuse and prevention, and other persons the district deems appropriate to formulate the written intervention plans.

D. Referrals and Judicial Intervention

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At no time should a child ages 6 to 17 years be referred to the Family Court to be placed on an order to attend school prior to the written intervention planning being completed with the parent(s) or guardian(s) by the school. A consent order must not be used as an intervention plan from any local school or school district. Should the parent(s) or guardian(s) refuse to cooperate with the intervention planning to remedy the attendance problem, the school district has the authority to refer the student to Family Court in accordance with S.C. Code Ann. § 59-65-50 (1990), and a report shall be filed against the parent(s) or guardian(s) with the Department of Social Services in compliance with S.C. Code Ann. § 20-7-490 (2)(c)(Supp. 2002).

1. Petition for a School Attendance Order

If the intervention plan is not successful and further inquiry by school officials fails to cause the truant student and/or parent(s) or guardian(s) to comply with the written intervention plan or if the student and/or parent(s) or guardian(s) refuses to participate in intervention and the student accumulates two or more additional unlawful absences, the student is considered an “habitual” truant. Each referral must include a copy of the plan and specify any corrective action regarding the student and/or the parent(s) or guardian(s) that the district recommends that the court adopt as well as any other available programs or alternatives identified by the school district. The intervention plan must be attached to the petition to the Family Court and served on the student and the parent(s) or guardian(s).

2. Petition for Contempt of Court

Once a school attendance order has been issued by the Family Court and the student continues to accumulate unlawful absences, the student is considered to be a “chronic” truant and school officials may refer the case back to Family Court. The school and district must exhaust all reasonable alternatives prior to petitioning the Family Court to hold the student and/or the parent(s) or guardian(s) in contempt of court. Any petition for contempt of court must include a written report indicating the corrective actions that were attempted by the school district and what graduated sanctions or alternatives to incarceration are available to the court in the community. The school district must include in the written report its recommendation to the court should the student and/or parent(s) or guardian(s) be found in contempt of court.

E. Coordination with the South Carolina Department of Juvenile Justice

Each school district should coordinate with the local office of the South Carolina Department of Juvenile Justice to establish a system of graduated sanctions and alternatives to incarceration in truancy cases.

F. Transfer of Plans

If a student transfers to another public school in South Carolina, intervention plans shall be forwarded to the receiving school. School officials will contact the parent(s) or guardian(s) and local team members to review the plan and revise as appropriate. Court ordered plans may be amended through application to the court.

G. Approval of Absences in Excess of Ten Days and Approval of Credit

1. Approval or Disapproval of Absences

The district board of trustees, or its designee, shall approve or disapprove any student’s absence in excess of ten days, whether lawful, unlawful, or a combination thereof, for students in grades K–12.

For the purpose of awarding credit for the year, school districts must approve or disapprove absences in excess of ten days regardless as to whether those absences are lawful, unlawful, or a combination of the two.

2. High School Credit

In order to receive one Carnegie unit of credit, a student must be in attendance at least 120 hours, per unit, regardless of the number of days missed. Students whose absences are approved should be allowed to make up any work missed in order to satisfy the 120-hour requirement. Local school boards should develop policies governing student absences giving appropriate consideration to unique situations that may arise within their districts when students do not meet the minimum attendance requirements.

Therefore, districts should allow students, whose excessive absences are approved in part 1 of this section, to make up work missed to satisfy the 120 hours requirement.

Examples of make-up work may include

- a. after-school and weekend make-up time,
- b. extra work that could translate to extra hours of credit, or
- c. summer school.

H. Reporting Requirements

The State Department of Education will develop and implement a standard reporting system for the adequate collection and reporting of truancy rates on a school-by-school basis.

I. Guidelines

Additional information relating to the implementation of this regulation will be contained in State Department of Education Guidelines. The State Department of Education will review and update these guidelines as needed.

Fiscal Impact Statement: The full implementation of the uniform management information and reporting system as required by the No Child Left Behind Act of 2001 will cost the SDE approximately \$700,000. The cost includes building a Structured Query Language (SQL) database accessible via the Web to meet the needs of the system.