

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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of the
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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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REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
 The history, status, and full text of these regulations are available on the
 South Carolina General Assembly Home Page: www.sstatehouse.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
2360	8-16-02	LIFE Scholarship	1-15-03 Commission on Higher Education
2792	2-18-03	Career or Technology Centers/Comprehensive High Schools	5-13-03 Board of Education
2823	5-14-03	S C. Patients' Compensation Fund	7-03-03 Department of Insurance

2 EXECUTIVE ORDERS

2003-19

WHEREAS, the Grand Jurors of Cherokee County indicted Billy Olin Wallace on July 17, 2003, on charges of possession with intent to distribute oxycontin and distribution of oxycontin, a controlled substance, in violation of Section 44-53-370(b)(1) of the South Carolina Code of Laws; and

WHEREAS, the South Supreme Court in Porter v. State, 290 S.C. 38, 348 S.E.2d 172 (1986) held possession of a controlled substance with intent to distribute is a crime of moral turpitude; and

WHEREAS, certified true copies of the indictments against Billy Olin Wallace have been provided to me; and

WHEREAS, Billy Olin Wallace is a member of the Cherokee County Council in South Carolina; and

WHEREAS, Article VI, Section 8 of the South Carolina Constitution provides that "[a]ny officer of the State or its political subdivisions . . ., who has been indicted by a grand jury for a crime involving moral turpitude or who has waived such indictment if permitted by law may be suspended by the Governor until he shall have been acquitted.."

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Billy Olin Wallace from the Cherokee County Council. This suspension shall remain in effect until such time as he shall be formally acquitted or convicted.

This action in no manner addresses the question of the guilt or innocence of Mr. Wallace and should not be construed as an expression of any opinion one way or another on such question.

This order shall take effect immediately.

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

**MARK SANFORD
Governor**

2003-20

WHEREAS, Louise Davis has resigned as Greenwood County Clerk of Court, effective June 30, 2003; and

WHEREAS, the undersigned is authorized to appoint a County Clerk of Court in the event of a vacancy pursuant to Sections 1-3-220(2), 4-11-20(1) and 14-17-30 of the South Carolina Code of Laws, as amended; and

WHEREAS, Emmett F. Brooks residing at 209 Lodge Drive, Greenwood, South Carolina 29646, is a fit and proper person to serve as the Greenwood County Clerk of Court.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Emmett F. Brooks as Clerk of Court of Greenwood County until the next general election for this office and until his successor shall qualify.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 6th DAY OF AUGUST, 2003.**

**MARK SANFORD
Governor**

4 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF PROPOSED AMENDMENT TO THE *SOUTH CAROLINA AIR QUALITY IMPLEMENTATION PLAN* CHAPTER 61

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

TRANSPORTATION CONFORMITY

Synopsis:

Upon publication in the *State Register* on September 27, 1996, the *South Carolina Air Quality Implementation Plan* (SIP) was revised to incorporate the applicable provisions of the transportation conformity review process in accordance with the requirements of the Federal Clean Air Act Amendments as promulgated by the United States Environmental Protection Agency (USEPA) on November 24, 1993 (58 FR 62188) in 40 CFR Part 51 Subpart T. Under those authorities, no department, agency, or instrumentality of the Federal government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity that does not conform to the SIP. The transportation conformity rule requires Federal agencies to determine, prior to taking any action on transportation plans, programs, and projects, that such action will conform to the SIP to maintain the National Ambient Air Quality Standards (NAAQS). The transportation conformity regulation applies only to areas that are designated nonattainment or maintenance for any of the criteria pollutants (ozone, carbon monoxide, small particulate matter, sulfur dioxide, nitrogen dioxide, or lead).

On August 15, 1997 (62 FR 43780), April 10, 2000 (65 FR 18911), and August 6, 2002 (67 FR 50808), the USEPA promulgated amendments to the transportation conformity rule to streamline and clarify the criteria and procedures for determining the conformity of transportation plans, programs, and projects. The State is required by 40 CFR Part 51 Subpart T § 51.390 to amend the SIP by specifically removing any previously applicable implementation plan transportation conformity requirements and submitting a revision to the SIP meeting the requirements of 40 CFR Part 93 Subpart A. The South Carolina Department of Health and Environmental Control (Department) proposes to adopt the applicable provisions of the Federal regulation as promulgated, and to incorporate a revised Memorandum of Agreement that implements the "South Carolina Criteria and Interagency Consultation Procedures for the Determination of the Conformity of Transportation Plans, Programs, and Projects."

Public Hearing:

Staff of the Department will conduct a public hearing on September 22, 2003 to receive comments on the proposed amendments to the SIP. The public hearing will commence at 10:00 a.m. in room 2380 at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. Interested members of the public are invited to attend the public hearing and to present comments on the proposed amendments. Comments may also be submitted in writing to Dennis Camit at the South Carolina Department of Health and Environmental Control, Division of Air Planning, Development, and Outreach, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by September 22, 2003, the close of the comment period.

Copies of the proposed SIP amendment, for public notice and comment, may be obtained by contacting Dennis Camit at the address provided above or by calling (803) 898-4284.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication August 22, 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

Replacement of a 1.0 Tesla MRI unit with a 1.5 Tesla MRI unit.
Anderson Area Medical Center/AnMed Health
Anderson, South Carolina
Project Cost: \$2,039,303

Affecting Charleston County

Phase I of the replacement and consolidation of Charleston Memorial Hospital (CMH) and the Medical University Hospital Authority (MUHA) to consist of construction of a diagnostic and treatment center including a new MRI and 3 Computerized Tomography (CT) scanners and a bed tower housing 156 general hospital beds. The project also involves conversion of 25 existing rehabilitation beds at the Medical University of South Carolina (MUSC) to general beds and conversion of 15 existing psychiatric beds at CMH to general beds resulting in a total licensed bed capacity of 604 general acute care, 82 psychiatric and 23 substance abuse beds at MUSC.

Medical University of South Carolina Medical Center
Charleston, South Carolina
Project Cost: \$291,803,000

Affecting Horry County

Addition of twenty (20) psychiatric beds, for a total of twenty-eight (28) licensed psychiatric beds.
Lighthouse of Conway- Acute Care
Conway, South Carolina
Project Cost: \$1, 034, 746

Affecting Spartanburg County

Construction of an Ambulatory Surgery Center with four (4) operating rooms (ORs), one (1) special procedure room, and one (1) endoscopy procedure room (OR) restricted to gastrointestinal procedures only.
Surgery Center at Pelham, LLC
Greer, South Carolina
Project Cost: \$7,828,894

Affecting York County

Conversion of two (2) nursing home beds to two (2) rehabilitation beds resulting in a total of thirty four (34) rehabilitation beds and six (6) nursing home beds.
HEALTHSOUTH Rehabilitation Hospital of Rock Hill
Rock Hill, South Carolina
Project Cost: \$0

6 NOTICES

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning August 22, 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

Replacement of a 1.0 Tesla MRI unit with a 1.5 Tesla MRI unit.
Anderson Area Medical Center/AnMed Health
Anderson, South Carolina
Project Cost \$2,039,303

Affecting Charleston County

Phase I of the replacement and consolidation of Charleston Memorial Hospital (CMH) and the Medical University Hospital Authority (MUHA) to consist of construction of a diagnostic and treatment center including a new MRI and 3 Computerized Tomography (CT) scanners and a bed tower housing 156 general hospital beds. The project also involves conversion of 25 existing rehabilitation beds at the Medical University of South Carolina (MUSC) to general beds and conversion of 15 existing psychiatric beds at CMH to general beds resulting in a total licensed bed capacity of 604 general acute care, 82 psychiatric and 23 substance abuse beds at MUSC.

Medical University of South Carolina Medical Center
Charleston, South Carolina
Project Cost: \$291,803,000

Affecting Florence County

Provide Positron Emission Tomography (PET) imaging services to Carolinas Hospital System for one (1) day per week.
Carolinas Hospital System
Florence, South Carolina
Project Cost: \$290,000

Affecting Greenwood County

Construction of a new patient tower to replace the existing patient tower with no change in the licensed bed capacity.
Self Regional Healthcare
Greenwood, South Carolina
Project Cost: \$52,632,053

Affecting Orangeburg County

Purchase of Edisto Convalescent Center by Laurel Baye Properties of Orangeburg, LLC and lease it to Laurel Baye Healthcare Center of Orangeburg, LLC with no change in the licensed 113 beds.
Laurel Baye Healthcare of Orangeburg, LLC
Orangeburg, South Carolina
Project Cost: \$2,994,500

Affecting Spartanburg County

Construction of an Ambulatory Surgery Center (ASC) with four (4) operating rooms (ORs), one (1) special procedure room, and one (1) endoscopy procedure room (OR) restricted to gastrointestinal procedures only.
Surgery Center at Pelham, LLC

Greer, South Carolina
Project Cost: \$7,828,894

Affecting York County

Replacement of equipment in two (2) cardiac catherization labs and addition of a third cardiac catherization lab.
Piedmont Medical Center

Rock Hill, South Carolina
Project Cost: \$7,550,890

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**PUBLIC NOTICE**

Section III of R.61-98, paragraph 3. (k), the SUPERB Site Rehabilitation and Fund Access Regulations, requires the Department to public notice and receive and consider public comments in developing and periodically updating performance standards and criteria. The Underground Storage Tank Program of the South Carolina Department of Health and Environmental Control is updating assessment guidelines documents, corrective action solicitations, *South Carolina Risk Based Corrective Action for Petroleum Releases (RBCA)*, Analytical Methodology for Groundwater and Soil Assessment Guidelines; as well as, the *State Underground Petroleum Environmental Response Bank (SUPERB) Allowable Costs* document.

The Department is proposing changes to the existing standards and criteria as described above. Interested persons may comment on the proposed changes by writing to Arthur Shrader, Director, Assessment and Corrective Action Division, Underground Storage Tank Program, SCDHEC, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than September 23, 2003. Copies of the proposed changes may be obtained by contacting Mr. Shrader at the above address.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COMMISSION****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.

8 NOTICES

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.

DEPARTMENT OF REVENUE

NOTICE

Under Act 69 of 2003, Section WW.2., enacting new Code Section 12-4-385, the Department of Revenue is required to notify any known industry groups about changes in policy that occur at the Department. We have obtained the names and addresses of Lobbyist Principals registered as of June 24, 2003. We are sending a letter to them because we believe that they are the contact for an industry group that we may need to notify if the Department is considering a change of policy that might concern a group.

Please note that any taxpayer can sign up for our listserv which will let you know about recent advisory opinions and proposed changes in Department policy automatically. The Department would encourage every industry group to designate someone within the group to sign up for the Department's listserv. You can sign up for the listserv by going to the Department's website at www.sctax.org, clicking on "Tax Policy," and signing up under our subscription service or you can send an e-mail message to request@listserv.sctax.org and include the phrase SUBSCRIBE POLICY on the first line of the message and the Department will add your organization to our e-mail list. This will allow you to receive all proposed advisory opinions, whether or not it is a change in policy, before they are published by the Department. This e-mail subscription service will also allow you to receive all temporary and final Department advisory opinions. Department advisory opinions (issued through Revenue Rulings, Revenue Procedures, Private Letter Rulings, and Information Letters) are only the Department's official opinion and while they are binding on Department employees, they do not have the force and effect of law and are not binding on the public.

STATE CROP PEST COMMISSION
CLEMSON UNIVERSITY
CHAPTER 27
Statutory Authority: 1976 Code Section 46-9-40

Notice of Drafting:

The State Crop Pest Commission is contemplating amending its nursery regulations, as found in Regulation 27-160 through 27-168. These regulations apply to all plant nurseries and include dealers, nurserymen, nursery inspections and inspection tags, and importation of nursery stock. Please address all comments to Mr. Ken Glenn, Department of Plant Industry, 511 Westinghouse Road, Pendleton, SC 29670.

To be considered comments must be received no later than 5:00 P.M., on September 30, 2003, the close of the drafting comment period.

Synopsis:

These regulations apply to persons dealing in or growing nursery stock for resale.

Legislative review of this proposal will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

Notice of Drafting:

The Department is proposing to amend R.61-62, *Air Pollution Control Regulations and Standards*. Interested persons are invited to present their views in writing to Thomas J. Flynn, III, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by September 29, 2003, the close of the drafting comment period.

Synopsis:

On July 18, 1997, the United States Environmental Protection Agency (EPA) promulgated amendments to the National Ambient Air Quality Standards (NAAQS) for ozone and fine particulate matter. The amendments revised the existing 1-hour ozone standard with an 8-hour ozone standard at a level of 0.08 parts per million based on the 3-year average of the annual fourth-highest daily maximum 8-hour ozone concentration. Two new PM_{2.5} standards were also added. One is an annual standard set at 15 micrograms per cubic meter based on the 3-year average of annual arithmetic mean PM_{2.5} concentrations. The other is a 24-hour standard set at 65 microgram per cubic meter based on the 3-year average of the 98th percentile of 24-hour PM_{2.5} concentrations.

Shortly after promulgation, the amendments were challenged in the courts. On February 27, 2001, the Supreme Court issued a decision upholding how the EPA sets air pollution standards and affirming the principle that air pollution health standards must be set to protect public health and are not based on cost. The court also ruled that the EPA did not exceed its authority to set standards without Congressional review. However, the court sent back to EPA the question of how or when to implement measures to improve air quality. The issue of implementation of the standards has delayed the EPA's designation of areas as being in either attainment or nonattainment of the new standards. The EPA has now made clear their intentions to designate areas for the 8-hour standard by April 15, 2004, and to designate areas for the PM_{2.5} standards shortly thereafter.

10 DRAFTING

The Department proposes to amend Regulation 61-62.5, *Air Pollution Control Standards Standard No. 2, Ambient Air Quality Standards*, to incorporate the new Federal amendments to the ozone and PM_{2.5} NAAQS. While EPA's intent is to replace the 1-hour ozone standard with the 8-hour ozone standard, the method by which the 1-hour standard will be replaced has not been finalized. Therefore, the Department will leave the 1-hour ozone standard in place until such time that the EPA decides the implementation schedule for revocation of the 1-hour standard.

The proposed amendments in this Notice will not be more stringent than the current Federal requirements. The proposed amendments will not require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control (Department) is proposing to amend Regulation 61-62.1, *Definitions and General Requirements*, of the Air Pollution Control Regulations and Standards, R.61-62. The purpose of this notice is to extend the drafting period previously established by the November 22, 2002, drafting notice published in Volume 26, Issue 11 of the *South Carolina State Register*. Interested persons are invited to present their views and/or interest 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, comments must be received by Monday, September 22, 2003, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (EPA) promulgated a final rule referred to as the Consolidated Emissions Reporting Rule (CERR) in the *Federal Register* on June 10, 2002 [67 FR 39602]. Pursuant to its authority under section 110 of Title I of the Clean Air Act (CAA), EPA has long required State Implementation Plans (SIPs) to provide for the submission by states to EPA of emission inventories containing information regarding the emissions of criteria pollutants and their precursors. The purpose of the CERR is to simplify emissions reporting, establish new reporting requirements for PM_{2.5} (fine particulate matter) and NH₃ (ammonia), and establish new requirements for the statewide reporting of area source and mobile source emissions. The rule will also reduce the reporting burden by reducing the frequency of reporting for some pollutants.

The Department proposes to amend R.61-62.1, *Definitions and General Requirements*, to make the necessary revisions to be consistent with the new federal emissions reporting requirements. The Department is also proposing to revise the regulation to facilitate the collection of air toxics data and may consider other amendments related to emissions reporting requirements as determined to be necessary.

Legislative review will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 48-1-30 and 48-1-50

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend R.61-101, *Water Quality Certification*. This is a second Notice of Drafting for this proposed amendment to extend the regulatory timeframe. Interested

persons may submit comments to Sally Knowles, Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201-1708. All comments must be received by 5:00 p.m. on September 22, 2003, the close of the drafting comment period. Comments received during the first Notice of Drafting that was published December 27, 2002, will be considered and there is no need to resubmit those comments.

Synopsis:

The U.S. Supreme Court decision, *Solid Waste Agency of Northern Cook County (SWANCC) v. United States Army Corps of Engineers*, issued January 9, 2001, removed isolated waters and wetlands from the permitting jurisdiction of the Corps of Engineers. Since the Corps of Engineers no longer issues permits for the discharge of fill material into isolated wetlands, there is no requirement for the Department to issue water quality certification and coastal zone consistency. Presently, there is State review for fill into isolated wetlands only if another State permit is required.

The proposed amendment will provide a permitting program to reinstate the Department's previous authority to regulate all discharges into isolated waters. It will also streamline the process for obtaining a permit for discharges into isolated waters and wetlands.

This amendment will require legislative review.

DEPARTMENT OF SOCIAL SERVICES
CHAPTER 114
Statutory Authority: 1976 Code Section 43-1-80

Notice of Drafting:

The South Carolina Department of Social Services is considering revising regulations concerning the Child Care Licensing Program. Interested persons should submit their comments in writing to Ms. Kelly Cordell, Deputy State Director, Program Policy and Oversight, South Carolina Department of Social Services, Post Office Box 1520, Columbia, South Carolina 29202-1520. To be considered, comments must be received not later than 5:00 p.m., September 29, 2003.

Synopsis:

The South Carolina Department of Social Services proposes to develop and amend Child Care regulations for the purpose of setting forth new, and clarifying current, regulations. The areas in which new regulations will be developed or amended include the following:

Establishing staff:child ratios and maximum group sizes, including a four-year timeline for compliance. For example, for children ages birth to one year, the current staff:child ratio is 1:6. Two years after ratification of the regulations, the required ratio would be 1:5. Four years after, the maximum group size would be 10 infants per room, with a requirement of two workers per room.

Clarification of health and safety issues to ensure consistency with Department of Health and Environmental Control rules.

Clarification of existing definitions and addition of new ones. For example, the definition of center director will be clarified to state that he/she may be the director of only one center and may not hold another full-time job. In addition, a new definition for toddler is proposed, clarifying that this is a child 24 months of age or older, but younger than three years of age.

12 DRAFTING

Amending food and snack regulations to align with United States Department of Agriculture guidelines.

Legislative review of these additions and changes will be required.

Document No. 2847
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
 CHAPTER 27
 Statutory authority: 1976 Code Section 47-4-30 and 47-17-130

R.27-1023 State Meat Inspection Regulation

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21USCA 661, Section 301) which established Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations “at least equal to” those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements. The Notice of Drafting was published in the State Register on June 27, 2003.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on September 22, 2003 at 10:00 a.m. If no request is received by September 15, 2003 the hearing will be canceled. Written comments may be directed to Dr. Daniel E. Lafontaine, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than September 15, 2003.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Meat Inspection Regulations Purpose: To modernize, clarify and update the existing regulations which govern the inspection of meat products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Meat Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be “at least equal to” applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Section 47-4-30, 47-17-130.

Plan for Implementation: The state meat inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

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. 2849

CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27

Statutory Authority: 1976 Code Section 47-4-30, 47-19-30, and 47-19-170

R 27-1022 State Poultry Regulations

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act (21USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations "at least equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements. The Notice of Drafting was published in the State Register on June 27, 2003.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on September 22, 2003 at 10:00 a.m. If no request is received by September 15, 2003 the hearing will be canceled. Written comments may be directed to Dr. Daniel E. Lafontaine, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than September 15.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Poultry Inspection Regulations
Purpose: To modernize, clarify and update the existing regulations which govern the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Section 47-4-30, 47-19-30 and 47-19-170
Plan for Implementation: The state poultry inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

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. 2848
DEPARTMENT OF INSURANCE
 CHAPTER 69

Statutory Authority: S. C. Code Sections 38-3-110(2), 38-71-530(b), 1-23-10 et seq. (1976), as amended.

69-46. Medicare Supplement Insurance

Preamble:

The Department proposes to amend Regulation 69-46 in order to provide for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; and to provide for full disclosures in the sale of accident and health insurance coverages to persons eligible for Medicare.

Notice of Public Hearing and Opportunity for Public Comment:

The Administrative Law Judge Division will conduct a public hearing for the purpose of receiving oral comments on September 25, 2003 at 10:30 a.m. at 1205 Pendleton Street, Columbia, South Carolina. Interested parties should submit their views in writing to: Melanie A. Joseph, Executive Assistant to the Director/Legislative Liaison, Post Office Box 100105, Columbia, South Carolina 29202-3105 on or before September 12, 2003.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

The South Carolina Department of Insurance proposes to amend Regulation 69-46, Medicare Supplement Insurance, in order to comply with State Children's Health Insurance Program Benefits Improvement and Protection Act of 2000 (BIPA). BIPA essentially replaces provisions that determine the period during which a Medicare beneficiary with guarantee issue rights may apply for a Medigap policy. To the extent that BIPA defines these time periods differently than they were defined in the Balanced Budget Act of 1997 and the Medicare, Medicaid and SCHIP Balanced Budget Refinement Act of 1999, State regulatory programs must comply with BIPA. The provisions of BIPA became effective upon enactment, and issuers of Medicare supplement insurance are now required to comply with these provisions.

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.

Statement of Rationale:

The following sources were relied upon in the drafting of this regulation: the National Association of Insurance Commissioners Model Regulation related to Medicare Supplement Insurance; the Balanced Budget Refinement Act and the Benefits and Improvement Protection Act.

16 PROPOSED REGULATIONS

Document No. 2850
DEPARTMENT OF REVENUE
CHAPTER 117
Statutory Authority: 1976 Code Section 12-4-320

Regulations: All Regulations in Article 6 of Chapter 117, except SC Regulation 117-105.

Preamble:

The South Carolina Department of Revenue is considering reorganizing, renumbering and making changes to its property regulations. All regulations in Article 6 of Chapter 117, except SC Regulation 117-105, will be repealed and the reorganized regulations will be added to a new Article 37 of Chapter 117. The regulations will be reorganized and renumbered so that regulations dealing with similar matters can be found together. In addition, each regulation would have several "subsections" numbered in a manner to allow future issues concerning the subject matter to be added on and still be in the same place in the regulation code as other similar issues. For example, all general definitions to be used in administering property taxes can be found in one regulation under Regulation 117-1700. This regulation has several "subsections" numbered 117-1700.1, 117-1700.2, and so on. Furthermore, the Department is considering making the changes described to the 11 regulations listed below.

Regulation 117-1840.1 (presently 117-110) – Value of Merchant’s Furniture, Fixtures and Equipment – It is proposed that this regulation be changed to clarify that value is determined from South Carolina income tax basis .

Regulation 117-1740.3 (presently 117-112) – General Requirements for Appraisal Records - Grammatical and sentence structure changes will be made to this regulation. The regulation would be changed to reflect: a) that the Department may require additional information in appraisal records; and, b) that counties may keep electronic records instead of, or in addition to, paper records.

Regulation 117-1740.1 (presently 117-113) – General Requirements for Building Permits – This regulation would be changed to reflect that the Department may require additional information in building permits and to require that eave height be included in the building permit. Other minor grammatical changes would also be made.

Regulation 117-1780.1 (presently 117-114) – Agricultural real property – This regulation would be updated to reflect changes to Code references and to eliminate specific requirements that are currently in the regulations. Instead, the code sections that contain those requirements would be referenced. Minor grammatical changes would also be made.

Regulation 117-1740.2 (presently 117-117) – Cadastral maps – This regulation would be changed to make minor grammatical changes and to eliminate all references to the State Mapping Office. The regulation would also be changed to: a) allow counties to delay replights for up to 2 years with the permission of the Department; and, (b) allow the Department, with a recommendation from the South Carolina Office of Research and statistical services at the Budget and Control Board to allow county maps to deviate from the scale set forth in the regulation.

Regulation 117-1840.2 (presently 117-119) – Assessment Guide for Personal Property – It is proposed that this regulation be changed to provide that values of vehicles may not exceed 95% of prior years’ value in accordance with current law and to delineate times when a county auditor may deviate from the Department’s assessment guides. Minor grammatical changes would also be made to the regulation.

Regulation 117-1700.2 (presently 117-124.5) - Definition of “Power Driven” Farm Machinery – It is proposed that this regulation be updated to include new code cites and constitutional references and to reflect that power driven farm machinery does not include motor vehicles registered with the Department of Public Safety.

Regulation 117-1800.1 (presently 117-124.6) – Application for Special Assessment as Legal Residence – It is proposed that this regulation be changed as follows: a) all references requiring the applicant to be owner of the property on January 1st of the year in question would be eliminated as this requirement has been eliminated in the law; b) property and owners of such property will be required to meet the requirements of Section 12-43-220(c), the current code provision that provides for a 4% assessment for a legal residence; c) references to the new code provision that allows a trustee to apply for the legal residence 4% assessment ratio in certain instances would be added; d) a request for information about whether the property is subject to certain vacation rental provisions would be added as this was recently added to the law; e) a provision would be added to provide that legal residence means where a person is domiciled; and, f) information would be provided as to when the application for legal residence classification must be filed. The penalty of perjury statement that is currently a part of the law will be added to regulation and the regulation will be changed to reflect that a county assessor can request any other information he determines is necessary to establish legal residence. Other grammatical changes would be made and code references would be updated.

Regulation 117-1840.2 (presently 117-126) – Use Value Procedure for Cropland and Timberland - It is proposed that this regulation be changed to set forth the values for both cropland and timberland as of 1991, as the law provides that the fair market values for the 1991 tax year are effective for all subsequent tax years. The soil rankings for all 46 counties for both cropland and timberland would be included in the regulation and the four marketing provinces with county classifications for timberland would also included. The formula for computing the fair market value for cropland and timberland would be eliminated from the regulation as the formula is no longer needed to determine value.

Regulation 117-117-1720.3 (presently 117-127) – Computation of the Index of Taxpaying Ability for School District when Property is Under Appeal. – It is proposed that this regulation be updated to address how property that is under appeal, both real and personal, will be valued by the Department in calculating the index of taxpaying ability for all years that the property is under appeal. The regulation will also be changed to address when the Auditor must notify the Department that an appeal has been resolved. Minor grammatical and code site changes will also be made.

Regulation 117-1840.5 (presently 117-128) –Discount for Subdivided Land – It is proposed that this regulation be changed to provide an example of how the discount for subdivided land is calculated. The regulation would also be updated to address the additional discount allowed by Code Section 12-43-225.

The proposal organizes the regulations as follows:

Regulation	Subject
117-1700	Definitions
117-1720	Department of Revenue Responsibilities
117-1740	County Responsibilities
117-1760	Classification of Property – General Provisions
117-1780	Classification of Property – Agricultural Use Property
117-1800	Classification of Property – Legal Residence
117-1820	Manufacturing Plant Constructed Pursuant to the Industrial Revenue Bond Act
117-1840	Valuation of Property Subject to Property Taxes
117-1860	Returns

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Discussion

The South Carolina Department of Revenue is considering reorganizing, renumbering and making changes to its property regulations. All regulations in Article 6 of Chapter 117, except SC Regulation 117-105, will be repealed and the reorganized regulations will be added to a new Article 37 of Chapter 117. The regulations will be reorganized and renumbered so that regulations dealing with similar matters can be found together. In addition, each regulation would have several "subsections" numbered in a manner to allow future issues concerning the subject matter to be added on and still be in the same place in the regulation code as other similar issues. For example, all general definitions to be used in administering property taxes can be found in one regulation under Regulation 117-1700. This regulation has several "subsections" numbered 117-1700.1, 117-1700.2, and so on. Furthermore, the Department is considering making the changes to 11 regulations as described above in the Preamble of this Notice of Proposed Regulation.

Notice of Public Hearing:

The S.C. Department of Revenue has scheduled a public hearing before the Administrative Law Judge Division at the Administrative Law Judge Division in the Edgar Brown Building on the Capitol Complex (1205 Pendleton Street, Suite 224) in Columbia, South Carolina for November 6, 2003 at 10:00 a.m. if the requests for a hearing meet the requirements of Code Section 1-23-110(A)(3). The public hearing, if held, will address a proposal by the department to reorganize, renumber and make changes to property tax regulations. All regulations in Article 6 of Chapter 117, except SC Regulation 117-105, will be repealed and the reorganized regulations will be added to a new Article 37 of Chapter 117. The regulations will be reorganized and renumbered so that regulations dealing with similar matters can be found together. In addition, each regulation would have several "subsections" numbered in a manner to allow future issues concerning the subject matter to be added on and still be in the same place in the regulation code as other similar issues. For example, all general definitions to be used in administering property taxes can be found in one regulation under Regulation 117-1700. This regulation has several "subsections" numbered 117-1700.1, 117-1700.2, and so on. Furthermore, the Department is considering making the changes to 11 regulations as described above in the Preamble of this Notice of Proposed Regulation. The department will be asking the Administrative Law Judge Division, in accordance with S.C. Code Ann. Section 1-23-111 (2000) issue a report that this proposal is needed and reasonable.

Comments:

All comments concerning this proposal should be mailed to the following address by September 22, 2003 by 5:00 p.m.

S.C. Department of Revenue
Legislative Services - Mr. Meredith Cleland
P.O. Box 125
Columbia, South Carolina 29214

Preliminary Fiscal Impact Statement:

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

Summary of the Preliminary Assessment Report:

The purpose of this proposal is to reorganize, renumber and make changes to property tax regulations. All regulations in Article 6 of Chapter 117, except SC Regulation 117-105, will be repealed and the reorganized regulations will be added to a new Article 37 of Chapter 117. The regulations will be reorganized and renumbered in the new article so that regulations dealing with similar matters can be found together. In addition, each regulation would have several "subsections" numbered in a manner to allow future issues concerning the subject matter to be added on and still be in the same place in the regulation code as other similar issues. Furthermore, the

Department is considering making the changes to 11 regulations as described above in the Preamble of this Notice of Proposed Regulation.

Preliminary Assessment Report:

Under the provisions of law governing the preliminary assessment report (Code Section 1-23-115), the SC Department of Revenue will address items (1) through (3) of Code Section 1-23-115(C) as follows:

1. The purpose of this proposal is to reorganize, renumber and make changes to property tax regulations. All regulations in Article 6 of Chapter 117, except SC Regulation 117-105, will be repealed and the reorganized regulations will be added to a new Article 37 of Chapter 117. The regulations will be reorganized and renumbered in the new article so that regulations dealing with similar matters can be found together. In addition, each regulation would have several "subsections" numbered in a manner to allow future issues concerning the subject matter to be added on and still be in the same place in the regulation code as other similar issues. For example, all general definitions to be used in administering property taxes can be found in one regulation under Regulation 117-1700. This regulation has several "subsections" numbered 117-1700.1, 117-1700.2, and so on. Furthermore, the Department is considering making the changes to several regulations as described above in the Preamble of this Notice of Proposed Regulation. The Department of Revenue will implement this proposal in the same manner as it implements all other regulations.

2. All regulations in Article 6 of Chapter 117, except SC Regulation 117-105, will be repealed and the reorganized regulations will be added to a new Article 37 of Chapter 117. The regulations will be reorganized and renumbered so that regulations dealing with similar matters can be found together. The new reorganized regulations in the new Article 37 are needed to organize the regulations to allow taxpayers to find all "regulations" on one subject matter in one place. This will reduce any taxpayer confusion that may result from having many regulations on a single subject matter. The proposal to re-organize these regulations is also reasonable in that it is the department's responsibility to maintain regulations in an orderly manner.

3. This proposal to re-organize these regulations will benefit taxpayers because it will reduce any taxpayer confusion by simplifying a taxpayer's search for information on a particular subject matter. This proposal is cost effective for the same reasons.

Under the provisions of law governing the preliminary assessment report (Code Section 1-23-115), the SC Department of Revenue will address items (9) through (11) of Code Section 1-23-115(C) as follows:

9. There is very little uncertainty associated with estimating the benefits of this regulation. All individuals would be similarly treated by these provisions.

10. The proposed regulation would not have any effect on the environment and public health.

11. If the proposed regulations are approved, there would not be a detrimental effect on the environment and public health.

Statement of Rationale:

The purpose of this proposal is to reorganize, renumber and make changes to property tax regulations. All regulations in Article 6 of Chapter 117, except SC Regulation 117-105, will be repealed and the reorganized regulations will be added to a new Article 37 of Chapter 117. The regulations will be reorganized and renumbered in the new article so that regulations dealing with similar matters can be found together. In addition, each regulation would have several "subsections" numbered in a manner to allow future issues concerning the subject matter to be added on and still be in the same place in the regulation code as other similar issues.

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Statement of Need and Reasonableness:

The new reorganized regulations in the new Article 37 are needed to organize the regulations to allow taxpayers to find all “regulations” on one subject matter in one place. This will reduce any taxpayer confusion that may result from having many regulations on a single subject matter. The proposal to re-organize these regulations is also reasonable in that it is the department’s responsibility to maintain regulations in an orderly manner.

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.