

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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GENERAL ASSEMBLY

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

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.

2004 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	1/9	2/13	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/23	2/27	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

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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 South Carolina General Assembly Home Page: www.scstatehouse.net

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2816	SR28-3	Environmental Protection Fees	2-29-04	Department Health and Envir Control
2810	SR28-3	Fees, Liability Insurance Requirements	2-29-04	LLR: Elevator and Amusement Rides
2824	SR28-3	Environmental Protection Fees	2-29-04	Department of Health and Envir Control
2826	SR28-3	Machines	2-29-04	Department of Revenue
2815	SR28-3	Decisions on a permit, Environmental Protection Fees	2-29-04	Department of Health and Envir Control
2818	SR28-3	Elevator and Amusement Rides, Inspections	3-12-04	LLR: Elevator and Amusement Rides
2821	SR28-4	Highway Patrol Wrecker Regulations	3-15-04	Department Public Safety
2830	SR28-4	Subdivision Water Supply and Sewage Treatment/Disposal	3-22-04	Department of Health and Envir Control
2829	SR28-4	Residential Care Facility Administration	3-22-04	LLR: Board of Long Term Health Care Administrators
2828	SR28-4	Burglar Alarm Systems	3-27-04	LLR: Contractors' Licensing Board
2832	R. 200 SR28-3	Business Enterprise Program	4-10-04	Commission for the Blind
2845		Failure to Appear	5-11-04	LLR: Occupational Health and Safety Review Board
2841		Forestry Commission Lands	5-11-04	Forestry Commission
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(Subject to Sine Die Revision)

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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
2871	3-31-04	Water Quality Certification	5-20-04 Department of Health and Envir Control

2 EXECUTIVE ORDERS

No. 2004-09

WHEREAS, on March 1, 2004, by Opinion 25787, the South Carolina Supreme Court concluded that the result of the 2002 election for Mayor of Johnsonville, South Carolina, was doubtful because three votes were cast illegally and the margin of victory was only three votes; and

WHEREAS, on March 5, 2004, the Registration and Elections Commission for Florence County (“Commission”) requested that a new election for Mayor of Johnsonville be held as a result of the Supreme Court’s decision; and

WHEREAS, the Commission has requested that the new election be held on June 29, 2004, in order to comply with the notice provisions in the South Carolina Code of Laws and the pre-clearance requirements of Section 5 of the Voting Rights Act of 1965; and

WHEREAS, Section 7-13-1170 of the South Carolina Code of Laws (1976), as amended, provides “when any election official of any political subdivision of this State charged with ordering, providing for, or holding an election has neglected, failed, or refused to order, provide for, or hold the election at the time appointed, or if for any reason the election is declared void by competent authority, and these facts are made to appear to the satisfaction of the Governor, he shall, should the law not otherwise provide for this contingency, order an election or a new election to be held at the time and place, and upon the notice being given which to him appears adequate to insure the will of the electorate being fairly expressed. To that end, he may designate the existing election official or other person as he may appoint to perform the necessary official duties pertaining to the election and to declare the result.”

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that a new election be held for Mayor of the City of Johnsonville on June 29, 2004, or at the earliest possible date and time after June 29, 2004, as is permitted by the United States Department of Justice; and (b) designate the Registration and Elections Commission for Florence County to perform the necessary official duties pertaining to the election and to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 25th DAY OF MARCH, 2004.**

MARK SANFORD
Governor

No. 2004-10

WHEREAS, the Florence County Voter Registration and Elections Commission (the “Commission”) failed to meet notice requirements to hold elections for Florence County School District Three Board of Trustees due to legislation pending (S.832, R187) in the General Assembly that revises the method of elections for this school district and sets the elections for the second Tuesday in May of each year; and

WHEREAS, on February 18, 2004, S.832, R187 was enacted into law and was given preclearance approval under Section 5 of the Voting Rights Act of 1965 from the United States Department of Justice on March 29, 2004; and

WHEREAS, on March 15, 2004, I received a request from the Commission to set a new election for Florence County School District Three Board of Trustees on May 27, 2004, in order to comply with the notice provisions in the South Carolina Code of Laws and the preclearance requirements of Section 5 of the Voting Rights Act of 1965; and

WHEREAS, Section 7-13-1170 of the South Carolina Code of Laws (1976), as amended, provides “when any election official of any political subdivision of this State charged with ordering, providing for, or holding an election has neglected, failed, or refused to order, provide for, or hold the election at the time appointed, or if for any reason the election is declared void by competent authority, and these facts are made to appear to the satisfaction of the Governor, he shall, should the law not otherwise provide for this contingency, order an election or a new election to be held at the time and place, and upon the notice being given which to him appears adequate to insure the will of the electorate being fairly expressed. To that end, he may designate the existing election official or other person as he may appoint to perform the necessary official duties pertaining to the election and to declare the result.”

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that new elections be held for Florence County School District Three Board of Trustees on May 27, 2004, or at the earliest possible date and time after May 27, 2004, as is permitted by the United States Department of Justice; and (b) designate the Florence County Voter Registration and Elections Commission to perform the necessary official duties pertaining to the election and to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 2nd DAY OF APRIL, 2004.**

MARK SANFORD
Governor

4 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication April 23, 2004, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Beaufort County

Provide mobile Positron Emission Tomography (PET) services three (3) days per week.
PET Services of Beaufort Imaging Center, LLC
Port Royal, South Carolina
Project Cost: \$747,091

Affecting Darlington County

Construction for the addition of 50 general acute care beds, resulting in a total licensed bed capacity of 166 general acute care beds; renovation and expansion of the emergency department and addition of a Computed Tomography (CT) scanner.
Carolina Pines Regional Medical Center
Hartsville, South Carolina
Project Cost: \$28,887,720

Affecting Richland County

Renovation and replacement of the existing 0.3T Magnetic Resonance Imaging (MRI) with a 0.7T MRI.
ImageCare NE Center
Columbia, South Carolina
Project Cost: \$2,415,756

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 April 23, 2004. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Beaufort County

Conversion of a procedure room to a dedicated endoscopy procedure room (OR) for gastrointestinal services only for a total of two (2) operating rooms (ORs) and one (1) endoscopy procedure room.
Bluffton-Okatie Outpatient Center
Okatie, South Carolina
Project Cost: \$40,000

Affecting Beaufort County

Provide mobile Positron Emission Tomography (PET) services three (3) days per week.
PET Services of Beaufort Imaging Center, LLC
Port Royal, South Carolina
Project Cost: \$747,091

Construction for the addition of 65 acute care beds to include the conversion of 6 psychiatric beds, 18 nursing home beds, and 14 rehabilitation beds to acute care beds for a total of 195 acute care beds and 14 psychiatric beds.
Beaufort Memorial Hospital
Beaufort, South Carolina
Project Cost: \$2,043,174

Affecting Greenville County

Relocation, consolidation, and upgrade of radiology services to include replacement of the existing Computed Tomography (CT) scanner and the addition of a 1.5T Magnetic Resonance Imaging (MRI) unit.
St. Francis Hospital, Inc.
Greenville, South Carolina
Project Cost: \$8,324,884

Affecting Kershaw County

Establishment of a diagnostic cardiac catheterization laboratory.
Kershaw County Medical Center
Camden, South Carolina
Project Cost: \$2,572,051

Affecting Lexington County

Replacement and upgrade of two (2) existing Computed Tomography (CT) scanners and one (1) Radiography and Fluoroscopy Room.
Lexington Medical Center
West Columbia, South Carolina
Project Cost: \$2,089,105

Affecting Richland County

Renovation and replacement of the existing 0.3T Magnetic Resonance Imaging (MRI) system with a 0.7T MRI.
ImageCare NE Center
Columbia, South Carolina
Project Cost: \$2,415,756

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

Bureau of Land and Waste Management
Blackberry Valley Landfill Site, Greenville County

NOTICE OF SETTLEMENT

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control ("SCDHEC") has entered into a Cost Recovery Settlement Agreement with Greenville Finishing Company ("Settling Party"). Prior to final execution by SCDHEC, the Cost Recovery Settlement Agreement is subject to a 30-day public comment period, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Section 122, 42 U.S.C. Section 9622 and the South Carolina Hazardous Waste Management Act ("SCHWMA") S.C. Code Ann. Section 44-56-200 (2002).

6 NOTICES

The Cost Recovery Settlement Agreement relates to the alleged release, and threatened release, of hazardous substances, pollutants, or contaminants at the Blackberry Valley Landfill Site, located along in Greenville County, South Carolina, on Groce Road, approximately 1.5 miles from Intersection of S-199 and S-132, is approximately 4.5 miles northwest of the City of Greenville and approximately one mile east of Pickens County (the "Site"). The Cost Recovery Settlement Agreement provides for recovery of response costs from the Settling Party for past response at the Site. In consideration of the foregoing, the Cost Recovery Settlement Agreement provides for a release of the Settling Party from further liability related to the matters covered by the Cost Recovery Settlement Agreement and confers contribution protection upon Settling Party pursuant to CERCLA Section 113, 42 U.S.C. Section 9613.

Notice of Settlement has been provided to all identified potentially responsible parties, and shall be published in the State Register.

Copies of the Cost Recovery Settlement Agreement may be obtained by providing a written Freedom of Information request to the South Carolina Department of Health and Environmental Control at:

Freedom of Information Office
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201-1708

Any comments must be submitted in writing, postmarked no later than May 24, 2004, and addressed to:

Jessica J.O. King, Esquire
Office of General Counsel
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201

UPON FINAL EXECUTION OF THE COST RECOVERY SETTLEMENT AGREEMENT, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST THE SETTLING PARTY SEEKING CONTRIBUTION FOR MATTERS ENCOMPASSED BY THE COST RECOVERY SETTLEMENT AGREEMENT SHALL BE FORECLOSED.

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 June 1, 2004 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 IClass II

ARM Environmental Services – Charlotte
 ETC Services, LLC
 Environmental Consulting & Technology, Inc.
 Ground Water Environmental Services - Columbia

DEPARTMENT OF LABOR, LICENSING AND REGULATION
NOTICE OF PUBLIC HEARING
OCCUPATIONAL SAFETY AND HEALTH STANDARDS

The South Carolina Department of Labor, Licensing, and Regulation (LLR) does hereby give notice under Section 41-15-220, S.C. Code of Laws, 1976, as amended, that a public hearing will be held on April 28, 2004 at 2:00 p.m. at the S.C. Department of LLR, 1st floor, room 103, 3600 Forest Drive, Columbia, S.C., at which time interested persons will be given the opportunity to appear and present views on the occupational safety and health standards being considered for adoption, which are as follows:

In Subarticle 6 (General Industry):

Removal of Subpart I, Section 1910.139 Respiratory Protection for M. Tuberculosis.

Retention of Subpart N, Section 1910.178 (m)(12) of the Powered Industrial Trucks Standard including its subordinate paragraphs (m)(12)(i) through (m)(12)(iii).

Revisions to Subpart T, Sections 1910.401-402 Commercial Diving Operations with the addition of Appendix C.

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

Persons desiring to speak at the hearing shall file with the Director of LLR a notice of intention to appear and the approximate amount of time required for her/his presentation on the particular matter no later than April 16, 2004. Any person who wishes to express her/his views, but is unable or does not desire to appear and testify at the hearing, should submit those views to the undersigned in writing on or before April 16, 2004.

Adrienne Riggins Youmans
 Director
 SC Department of LLR
 Post Office Box 11329
 Columbia, SC 29211-1329

8 NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. International Building Code, 2000 Edition. The International Building Code, 2000 Edition, is the current successor code to the 1997 edition of the Standard Building Code.

2. The original promulgating authority for this code is:

International Code Council
900 Montclair Road
Birmingham, Alabama 35213-1206

3. This code is referenced by:

South Carolina Regulation 71-8300.9(A).

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and has received one exception. Therefore, the Office of State Fire Marshal hereby promulgates this latest edition with the following exception: Chapter 1, Chapters 11 through 26, and Chapter 32 shall be deleted.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal hereby adopts the latest edition of the following nationally recognized code.

1. International Fire Code, 2000 Edition. The International Fire Code, 2000 Edition, is the current successor code to the 1997 edition of the Standard Fire Prevention Code.

2. The original promulgating authority for this code is:

International Code Council
900 Montclair Road
Birmingham, Alabama 35213-1206

3. This code is referenced by:

South Carolina Regulation 71-8301.3(A)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and has received one exception. Therefore, the Office of State Fire Marshal hereby promulgates this latest edition with the following exception: Chapters 1, 22, 33, 34 and 38 shall be deleted.

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 L. Nelson Roberts, Jr., Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by May 24, 2004, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 60, 63, and 70 throughout each calendar year. Recent federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and State Operating Permits Program. The Department proposes to amend Regulations 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*; 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*; and 61-62.70, *Title V Operating Permit Program*, to incorporate recent Federal amendments promulgated during the period from January 1, 2003, through December 31, 2003.

The Department also proposes to correct errors in 61-62.5, Standard No. 8, *Toxic Air Pollutants*, regarding chemical names and Chemical Abstract Service (CAS) numbers. In addition, the Department is proposing to add a new *Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP)*. Prior to the promulgation of Maximum Achievable Control Technology (MACT) standards for source categories, EPA promulgated emission standards for specific hazardous air pollutants in 40 CFR Part 61 NESHAP. The Department proposes to incorporate by reference into this new regulation, R.61-62.61, the general requirements and emission standards that have been promulgated in 40 CFR Part 61 for which the Department requested and received delegation of authority to implement and enforce. Furthermore, the Department proposes to incorporate recent federal amendments to 61-62.68, *Chemical Accident Prevention Provisions*, promulgated April 9, 2004, to change the reporting requirements of its chemical accident prevention regulations. Finally, the Department may propose typographical corrections and clarifications to R.61-62 as necessary.

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 LABOR, LICENSING, AND REGULATION
SOUTH CAROLINA BUILDING CODES COUNCIL
CHAPTER 9

Statutory Authority: 1976 Code Section 6-9-40

Notice of Drafting:

The South Carolina Building Codes Council proposes to modify the following sections of the International Building Code, 2003 edition:

R202
R301.1.1
R301.2.1.1
R301.2(20)

10 DRAFTING

R301.2.2
R303.6
R309.2
R311.4.3
R311.5.3
R311.5.3.3
R311.5.4
R311.5.6.1
TABLE R402.2
R403.1.4.2
R403.1.6
R403.1.7
TABLE R502.5(1)
R502.11.4
R602.6.1
R602.10.5
R802.10.1
E3305.1
E3501.6.2
N1102
ENERGY 105
ENERGY 701
G505.1.1
MECHANICAL M1305.1.4
M1411.4
M1804.2.6(6)
PLUMBING R307.1

Interested persons may submit comments to Gary F. Wiggins, Administrator, South Carolina Department of Labor, Licensing, and Regulation, South Carolina Building Codes Council, Post Office Box 11329, Columbia, South Carolina 29211-1329.

Synopsis:

The South Carolina Building Codes Council has accepted comments and convened a study committee pursuant to 6-9-40 for the consideration of the 2003 Edition of the International Building Codes. After receipt of their report, the South Carolina Building Codes Council proposes to modify sections of the International Building Code. All proposed modifications must provide a reasonable degree of public health, safety, and welfare. The study committee met on December 17, 2003, January 28, 2004, and February 20, 2004.

DEPARTMENT OF REVENUE

Chapter 117

Statutory Authority: 1976 Code Section 12-4-320

Notice of Drafting:

The South Carolina Department of Revenue is considering repealing SC Regulation 117-325 concerning the sales and use tax and the bulk sales statute. Since the bulk sales statute in Title 36, Chapter 6 of the Commercial Code was repealed effective July 1, 2001 by Act 67 of 2001, SC Regulation 117-325 is no longer needed.

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on, May 24, 2004.

Synopsis:

The South Carolina Department of Revenue is considering repealing SC Regulation 117-325 concerning the sales and use tax and the bulk sales statute. Since the bulk sales statute in Title 36, Chapter 6 of the Commercial Code was repealed effective July 1, 2001 by Act 67 of 2001, SC Regulation 117-325 is no longer needed.

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

Notice of Drafting:

The South Carolina Department of Revenue is considering amending SC Regulation 117-1400 concerning the electric power tax to state that the Department will no longer use the Standard Industrial Classification (“SIC”) Manual from 1967 as its guide in classifying “industrial customers” as that term is used in the electric power tax law. The Department, if this amendment is approved, will use the North American Industry Classification System (“NAICS”) Manual as its guide in classifying industrial customers under the electric power tax law. The NAICS Manual has replaced the U.S. Standard Industrial Classification (SIC) system as the classification system used by the Census Bureau.

Interested persons may submit written comments to Meredith F. Cleland, South Carolina Department of Revenue, Legislative Services, P.O. Box 125, Columbia, SC 29214. To be considered, comments must be received no later than 5:00 p.m. on, May 24, 2004.

Synopsis:

The South Carolina Department of Revenue is considering amending SC Regulation 117-1400 concerning the electric power tax to state that the Department will no longer use the Standard Industrial Classification (“SIC”) Manual from 1967 as its guide in classifying “industrial customers” as that term is used in the electric power tax law. The Department, if this amendment is approved, will use the North American Industry Classification System (“NAICS”) Manual as its guide in classifying industrial customers under the electric power tax law.

12 EMERGENCY REGULATIONS

Filed: March 31, 2004, 11:00 am

Document No. 2910
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123

Statutory Authority: 1976 Code Sections 50-11-500, 50-11-510, 50-11-520, 50-11-530, 50-11-540, 50-11-544, 50-11-2200 and 50-11-2210

Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Number 123-51. These regulations set open and closed seasons, bag limits, and methods of taking turkey and define special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas. Because the hunting seasons on these areas starts April 1, it is necessary to file these regulations as emergency.

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-51. Turkey Hunting Rules and Seasons

1. Total limit of 5 turkey statewide per person, 2 per day gobblers only, unless otherwise specified. Total statewide and county bag limits include turkeys harvested on Wildlife Management Areas (WMAs). Small unnamed WMAs in counties indicated are open for turkey hunting. Turkey seasons and limits on DNR-owned lands and Wildlife Management Area lands are as follows:

AREA	DATES	LIMIT	Other Restrictions
Sand Hills State Forest WMA	April 1 – May 1	2	(delete Wed-Sat. only)
Donnelley WMA	April 1 – May 1	1	Hunting by public draw only
Santee Cooper WMA	April 1 – May 1	1	Hunting by public draw only
Edisto WMA	April 1 – May 1	2	Wed. Only
Statewide Youth Hunt Day	Sat. before April 1	2	Youth Only

2. The following Regulations apply to all Wildlife Management Area lands.

a. During the spring turkey hunting season no game animal may be taken except turkey gobblers and bearded hens. During the fall turkey season (if scheduled) both gobblers and hens may be taken.

b. Shotguns, muzzleloader shotguns, or bows and arrows are permitted, all other weapons and methods of taking are prohibited including rifles, pistols, hard jacketed bullets, buckshot and slugs.

c. Turkeys may not be hunted with dogs.

d. Live decoys are prohibited.

e. It is unlawful to hunt turkeys on Sundays on Wildlife Management Area lands and on private lands within Game Zones 1 and 2. (delete zone 4)

Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity.

Because some hunts begin on April 1, it is necessary to file these regulations as emergency so they take effect immediately.

Fiscal Impact Statement:

This amendment of Regulation 123.51 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

14 FINAL REGULATIONS

Document No. 2830
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: S.C. Code Sections 44-1-140(11); 1-23-10; -110

R.61-57. *Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems*

Synopsis:

Regulation.61-57, *Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems*, was promulgated pursuant to S.C. Code Section 44-1-140 *et seq.* and Section 48-1-10 *et seq.* and was last amended on February 25, 2000. Since the last revision, there have been numerous requests from the regulated community to review and further amend this regulation. This revision will incorporate changes requested by the regulated community. See Discussion of Revisions below and Statement of Need and Reasonableness herein.

Discussion of Revisions:

SECTION/REVISION

CONTENTS Table of Contents added.

Section I. Grammatical change; “the” changed to “that” in last sentence.

Section II.A. The language “community or private drinking” deleted from the last sentence.

Section II.B. Changed to Section II.C.

Section II.B. New definition of “Accessible” added to clarify the regulation.

Section II.C. Changed to Section II.D.

Section II.D. Changed to Section II.E.

Section II.E. Changed to Section II.F.

Section II.F. Changed to Section II.G. Word “wastewater” added to define systems.

Section II.G. Deleted.

Section II.H. Old definition for “Public Water System” deleted in its entirety; new definition added to clarify the regulation and reflect current nomenclature.

Section II.I. Old definition for “Subdivision” deleted in its entirety; new definition added. Definition further clarified as a result of public comments.

Section II.J. New definition for “Wastewater Treatment Facility” added.

Section IV. Title changed to delete “Accessibility and” and “Sewer Systems”; “Wastewater Treatment Facility” added to reflect current nomenclature.

Section IV.A. Terminology changed to reflect current nomenclature.

Section IV.A.1. Terminology changed to reflect current nomenclature.

Section IV.A.2. Terminology changed to reflect current nomenclature.

Section IV.A.3. “Documented compliance with” added to clarify the section.

Section IV.A.4. “Documented compliance with” added to clarify the section. Deleted “local Councils of Governments, regional planning agencies”; added “pertinent”.

Section IV.B. Terminology changed to reflect current nomenclature.

Section V.A. Old section deleted in its entirety; new section added in response to public comments.

Section V.B. Changed to Section V.C.

Section V.B. New section added.

Section V.C. Wording added to clarify re-subdividing of property and to reflect current nomenclature.

Section V.C.2. Wording added to further clarify this section.

Section V.C.3. Terminology changed to reflect current nomenclature.

Section V.C. Changed to Section V.D.; terminology changed to reflect current nomenclature.

Section V.D. Changed to Section V.E.; terminology changed to reflect current nomenclature.

Section V.E. Changed to Section V.F.; typographical error corrected; sentence added to address lots of five or more acres. Wording changed to further clarify this section. Typographical error corrected. References to wetlands deleted.

Section V.F. Changed to Section V.G.

Section V.G. Changed to Section V.H.

Section V.H. Changed to Section V.I.; comma removed in the second sentence

Section VI.D. “interested person” changed to “affected individuals” in the first sentence; “shall” deleted in the second sentence. “must be submitted by affected individuals and must” added in the second sentence; one typographical error corrected. Last sentence amended to further clarify the section.

Section VI.D.1. “the” added in the first sentence.

Section VII. Section deleted in its entirety.

Section VIII. Changed to Section VII.

Section VII.B. Wording changed to allow further flexibility in the use of funds. Funds derived from these activities will still be used to post public notices and conduct public hearings in accordance with this regulation.

Section VII.C.1. “...two to fifteen...” changed to “...five to fifteen...”.

Section IX. Changed to Section VIII.

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Section X. Changed to Section IX.

Section XI. Changed to Section X.

Section XII. Changed to Section XI.

Instructions: Replace R.61-57 in its entirety by this amendment:

Text:

R. 61-57. Development of Subdivision Water Supply and Sewage Treatment/Disposal Systems

CONTENTS

SECTION I - Purpose

SECTION II - Definitions

SECTION III - Scope And Applicability

SECTION IV - Need For Public Water and Wastewater Treatment Facility

SECTION V - Application And Approval Procedures

SECTION VI - Public Notices And Public Hearings

SECTION VII - Application Fees.

SECTION VIII - Contested Cases

SECTION IX - Enforcement

SECTION X - Penalties

SECTION XI - Severability Clause

SECTION I - Purpose

To protect public health by preventing the spread of diseases transmitted through wastewater or drinking water. To protect the environment by preventing contamination of ground water and surface waters of the State. To ensure that new subdivisions are provided with safe drinking water supplies and adequate sewage treatment and disposal systems.

SECTION II - Definitions

A. Approval: A written document issued by the Department setting forth the general conditions under which onsite wastewater systems may be used as the method of sewage treatment and disposal within a proposed subdivision. An approval issued under this regulation shall specify the method of water supply that will be required or allowed for the development. An approval shall not constitute a permit to construct or operate an onsite wastewater system, nor shall an approval constitute a permit to construct or operate a public water system.

B. Accessible: For the purpose of this regulation, public water system and/or wastewater treatment facility connection is accessible when it adjoins the property in question, and the authority has granted permission to connect to the system. Where annexation or easements to cross adjacent property are required to connect, the system shall not be considered accessible.

C. Department: The South Carolina Department of Health and Environmental Control acting through its authorized representatives.

D. Lot: A designated parcel of land situated within a subdivision intended for use as a building site.

E. Onsite Wastewater System: A sewage treatment and disposal system as defined in Regulation 61-56.

F. Person: Any individual, firm, company, business or association, or an agent acting on behalf of an applicant.

G. Public Notice: A statement notifying the public that approval is being sought to allow the use of onsite wastewater systems as the method of sewage treatment and disposal for a specific, proposed subdivision and offering the public an opportunity to provide the Department with comments pertaining to the proposed use of onsite wastewater systems within the development. The proposed method of water supply shall also be included in the public notice.

H. Public Water System: Any publicly or privately owned waterworks system, which provides drinking water for human consumption, as defined by Regulation 61-58, State Primary Drinking Water Regulations.

I. Subdivision: Any tract of land divided into five or more lots for the immediate or future purpose of building development where onsite wastewater systems are to be considered except where all of the lots are 5 acres or larger, regardless of the number of lots. This definition shall apply whether the lots are to be sold, rented or leased, but shall not apply to subdivisions that are served by wastewater treatment facilities. This definition shall not include the division, partition, or conveyance of property pursuant to a will, an intestacy statute, or the order of a probate judge.

J. Wastewater Treatment Facility: A publicly or privately owned system of structures, equipment and related appurtenances to treat, store, or manage wastewater.

SECTION III - Scope and Applicability

This regulation establishes procedures for the evaluation, approval and disapproval of subdivisions where the use of onsite wastewater systems is proposed as the method of sewage treatment and disposal. The standards that govern the construction and siting of onsite systems are included in Regulation 61-56.

SECTION IV - Need For Public Water And Wastewater Treatment Facility

A. If approved public water and/or wastewater treatment facility is accessible for connection or if the Department determines that the subdivision is not suitable for use of onsite wastewater disposal systems, subdivisions developed after the effective date of this regulation shall be served by public water and/or wastewater treatment facilities. In making determinations pertaining to the need for public water and wastewater treatment facilities, the Department shall consider the following:

1. The proximity of existing public water systems and/or wastewater treatment facilities to proposed development sites.
2. The condition and status of existing public water systems and/or wastewater treatment facilities. "Condition and status" in this context shall relate to service capacities and potentials, compliance histories and other factors as deemed appropriate by the Department.
3. Documented compliance with zoning, building and other codes and ordinances established by local governmental entities.
4. Documented compliance with the short-term and long-range plans of pertinent cities, towns, counties, public service districts, water and sewer authorities and other local governmental entities.

B. All public water systems and wastewater treatment facilities serving subdivisions shall be installed, operated and maintained in accordance with applicable laws, regulations and standards.

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SECTION V - Application and Approval Procedures

A. No approval under this regulation shall be required for subdivisions that are served by wastewater treatment facilities.

B. No lots shall be sold and no permit for an onsite wastewater system shall be issued in any subdivision where onsite wastewater systems are proposed as the method of sewage treatment and disposal until the owner or agent has received a written subdivision approval from the Department.

C. Any person planning to develop a subdivision utilizing onsite wastewater systems shall first submit to the Department an Application for Subdivision Approval. The application shall contain accurate information that is needed in determining the feasibility of onsite systems. Should additional lots be added and/or lots re-subdivided at a later date from the original parent parcel, the proposed changes to the original plat must be submitted to the Department for subdivision review.

1. Each application shall be accompanied by a preliminary or boundary plat of the proposed subdivision. The plat shall be drawn to scale and shall include information needed to evaluate the potential to use onsite wastewater systems in the subdivision. Such information may include, but not be limited to: lot lines with dimensions, roads and streets, easements, location sketch, directional indicators, contours, watercourses and other features as deemed necessary.

2. In order to establish suitability for onsite wastewater systems, the Department may require an applicant to submit tests or information regarding site and soil conditions within the proposed subdivision. These may include, but not be limited to, backhoe pits, soil auger borings, soils classifications and other information as deemed necessary.

3. Each application shall include or be accompanied by a statement identifying the nearest public water system and wastewater treatment facility. Confirmation regarding the accessibility of these systems may be required by the Department.

D. In determining the feasibility of allowing the use of onsite wastewater systems, the Department shall consider those factors that can potentially affect the operation of such systems, public health and the environment. These factors include, but are not necessarily limited to: wastewater treatment facility accessibility, topographical conditions and natural features, soil conditions, depth to ground water and other restrictive horizons, proximity to surface waters, proposed method of water supply, size of lots, total number of lots, long-term maintenance needs of onsite wastewater systems, and other factors as deemed appropriate. An approval under this regulation shall not be issued for any subdivision where the use of onsite wastewater systems is not feasible.

E. Each lot to be considered for an onsite wastewater system shall be of sufficient size to provide for the construction of the system; allow for all proposed buildings, easements, water wells governed by Regulation 61-71 and other improvements; and provide adequate space with suitable soil conditions for the full replacement or repair of soil absorption systems as required in Regulation 61-56.

F. Prior to the issuance of an approval, the owner shall submit to the Department a final, recordable plat of the subdivision. The final plat shall be prepared and signed by a Registered Land Surveyor or other similarly qualified person and shall include all information and features listed in paragraph C. of this Section. Where all lots in a subdivision or in a section of a subdivision contain five or more acres, the respective subdivision or section shall be exempt from the final plat requirements.

G. An approval may be rescinded if any changes are made to the final subdivision plat without prior authorization from the Department.

H. The approval of a subdivision may be rescinded if any site modifications are made that adversely affect the potential to use onsite systems in the development.

I. The re-subdividing of any lot situated within an approved subdivision shall be subject to the requirements of this regulation. The re-subdividing of lots shall not be approved, and permits for onsite systems shall not be issued if the resultant increase in the number and density of onsite systems within the area of the subdivision would potentially pose a threat to public health and the environment.

SECTION VI - Public Notices and Public Hearings

A. The Department shall give public notice of applications to approve onsite wastewater systems as the method of sewage treatment and disposal in new subdivisions. Public notices under this regulation shall allow fifteen days for public comment, and all comments shall be considered. No approval or disapproval shall be issued prior to the end of the comment period. Public notice shall not be required for minor revisions to applications.

B. Each public notice of application shall contain the following information:

1. A brief description of the proposed subdivision and a statement that approval is being sought to use onsite wastewater systems as the method of sewage treatment and disposal in the development. The notice shall also specify the proposed method of water supply.

2. The beginning and ending dates of the public comment period.

3. The name of the person seeking approval of the subdivision.

4. The name, address and phone number of the office that is responsible for processing the application and accepting public comment.

C. Public notice of an application shall be given by the following methods:

1. Posting a sign at a conspicuous location at or near the entrance to the subdivision.

2. By mailing a copy of the notice to persons on a mailing list. Persons on a mailing list shall include those who have made written requests to receive public notices under this regulation and any local, state or federal governmental agency having jurisdiction over the area where the proposed subdivision is located. The Department may periodically update mailing lists.

3. The Department may employ additional methods of public notice where needed.

D. During the fifteen-day comment period, any affected individuals may file a petition with the Department for a public hearing on an application for subdivision approval. A petition for a public hearing must be submitted by affected individuals and must indicate the specific reasons why a hearing is requested and shall specifically identify which portions of the application or other information constitutes the necessity for a public hearing. If the petition contains sufficient information to question the proper functioning of onsite wastewater systems, the Department may direct the scheduling of a hearing.

1. Public notice of a hearing shall be issued at least fifteen days prior to the scheduled date of the hearing. Public notice of hearing shall be given by mailing a copy of the notice to persons on a mailing list and by posting the notice at or near the entrance to the proposed subdivision. Other methods of distribution may be used by the Department as needed. All comments submitted during a public hearing shall be considered by the Department.

2. In cases where a public hearing is conducted, the Department shall not approve or disapprove the application for subdivision approval until at least two business days following the conclusion of the hearing.

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3. A tape recording or written transcript of the hearing shall be made available to the public.

SECTION VII - Application Fees

- A. Each person applying for approval under this regulation shall pay to the Department an application fee. The fee shall be paid at the time of application and shall not be refundable.
- B. Funds derived from these fees shall be used only for the provision of services and accompanying expenses associated with Environmental Health programs.
- C. The fee shall be based on the number of proposed lots in the section or phase of a subdivision for which approval is sought and shall be in accordance with the following:
 1. For subdivisions consisting of five to fifteen lots, the fee shall be \$50.
 2. For subdivisions consisting of sixteen to forty lots, the fee shall be \$100.
 3. For subdivisions consisting of more than forty lots, the fee shall be \$150.

SECTION VIII - Contested Cases

Approval or disapproval of a subdivision application may be appealed as a contested case pursuant to the Administrative Procedures Act, Regulation 61-72, and procedures established by the Administrative Law Judge Division. Appeals shall be directed to the Clerk of the Board of Health and Environmental Control

SECTION IX - Enforcement

This regulation is issued under the authority of Section 44-1-140 (11) and Section 48-1-10, *et. seq.* of the 1976 Code of Laws of South Carolina, as amended, and subsequent legislation.

SECTION X - Penalties

Violation of this regulation shall be punishable in accordance with Section 44-1-150, 48-1-320, and 48-1-330 of the 1976 Code of Laws of South Carolina, as amended, and each day of continued violation shall be a separate offense.

SECTION XI - Severability Clause

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

Fiscal Impact Statement:

The Department estimates there will be no new costs imposed on the State or its political subdivisions by this regulation.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

Purpose: This amendment of R.61-57 will incorporate changes made at the request of the regulated community; it will replace the existing regulation in its entirety.

Legal Authority: The legal authority for R.61-57 is Section 44-1-140 et seq. and Section 48-1-10 et seq., S.C. Code of Laws.

Plan for Implementation: This revision of R.61-57 will take effect upon approval by the Board of Health and Environmental Control, the General Assembly and publication in the *State Register*. The amendments of this revision will be implemented by providing the regulated community with copies of the regulation. Implementation plans will include training for appropriate Department staff.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: This revised regulation will provide for the use of onsite wastewater systems as a means of primary treatment of sewage in subdivisions. The revised regulation requires proper documentation, plan submittal and public notification for the development of these subdivisions.

DETERMINATION OF COSTS AND BENEFITS: There are no anticipated new costs associated with the implementation of this revised regulation. There will be a benefit to South Carolina's environment and the health of its citizens by insuring that subdivisions utilizing onsite wastewater systems for the primary treatment of sewage will be properly developed and will not produce environmental contamination.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This amendment will provide protection of South Carolina's environment and health by insuring the prevention of disease associated with groundwater and surface water contamination.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The intent of this revision is to provide protection for the environment and public health; if the amendments are not implemented the additional protection of the environment and public health will not be achieved.

Statement of Rationale Pursuant to S.C. Code Section 1-23-120: The determination to revise this regulation was in response to requests for review and change by the regulated community.

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Resubmitted February 4, 2004

Document No. 2828
DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTORS' LICENSING BOARD

CHAPTER 29
Chapter Statutory Authority: 1976 Code Section 40-11-60
Article 5, Burglar Alarm System

Synopsis:

The State Contractors' Licensing Board is proposing to update its regulation by repealing Regulations 29-50 through 29-60. The requirements of these regulations were incorporated directly into the Contractors' Licensing Board's statute. Therefore, regulations are unnecessary and should be repealed.

Instructions:

Delete the following regulations:

29-50
29-51
29-52
29-53
29-54
29-55
29-56
29-57
29-58
29-59
29-60

Statement of Rationale:

There was no scientific or technical basis relied upon in developing the regulation.

Text:

Repeal the following:

29-50. Definitions
29-51. Applications.
29-52. Examination.
29-53. Fees.
29-54. Grounds for Denial
29-55. Licenses.
29-56. Qualifying Agent.
29-57. Registered Employee.
29-58. Renewals.
29-59. Suspension or Revocation.
29-60. Bonds and Insurance

Fiscal Impact Statement:

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

Resubmitted May 13, 2003

Document No. 2829
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS
CHAPTER 93

Statutory Authority: 1976 Code Section 40-35-5, et. esq.

Synopsis:

The Board of Long Term Health Care Administrators amendments remove out-dated language, clarify current language and add an administrator-in-training program for community residential care facility administration.

Instructions:

Regulation 93-50 is being amended and will read as indicated in the following text.

Regulation 93-60(A) is amended; (B) remains the same; 93-60 (C), (D) and (E) have been deleted.

Regulation 93-65(A) remains the same, (B) has been amended and will read as indicated in the following text. Subsections 93-65 (B) (1, 2, 3, 4) remain the same.

Regulation 93-70(A) Remains the same 93-70(B) remains the same. 93-70 (C) has been deleted. 93-70(D) becomes 93-70(C). 93-70(E) becomes 93-70(D).

Regulation 93-80 has been amended and will read as indicated in the following text.

Regulation 93-100 (A) remains the same; 93-100(B) amended and will read as indicated in the following text.; 93-100 (C) remains the same 93-100 (D) remains the same; 93-100 (E) remains the same. Attachment A is amended and will read as indicated in the following text.

Regulation 93-110(A) has been amended and will read as indicated in the following text. 93-110 (B through K) remains the same.

Regulation 93-120 section title amended, text for 93-120 (A through C) remains the same.

Regulation 93-130 (A through D) remains the same; 93-130 (E) amended and will read as indicated in the following text. 93-130 (F through J) remains the same.

Regulation 93-140 deleted.

Regulation 93-150(A and B) remains the same; 93-150(C) has been amended and will read as indicated in the following text. Remaining text remains the same. 93-150(D and E) remains the same.

Regulation 93-160(A through D) remains the same.

Regulation 93-170(A) assigned with subsection indicator, text remains the same. 93-170 (B) has been added and will read as indicated in the following text.

Regulations 93-180 and 93-190 were repealed June 25, 1993 and remain as such.

Regulation 93-200 remains the same

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Regulation 93-210 remains the same

Regulation 93-220 (A and B) have been amended and will read as indicated in the following text. 93-220 (C) remains the same. 93-220 (D) is amended and will read as indicated in the following text; 93-220 (E through F) remains the same.

Regulation 93-230 has been amended and will read as indicated in the following text.

Regulation 93-240 (A)(1) becomes (A) and the text remains the same. 93-240(A)(2) and 93-240(A)(3) have been deleted. 93-240 (B) remains the same.

Regulation 93-250(A through E) remain the same; 92-250(F)(1) and (2) remain the same; 93-250(F)(3) has been amended and will read as indicated in the following text; 93-250 (4 through 6) remain the same.

Regulation 93-260 Section title amended; 93-260(A through E) text remains the same.

Text:

93-50. General Definitions.

Whenever used in these regulations, unless expressly stated otherwise, or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

A. "Accredited college or university" means a college or university whose accreditation is recognized by the Council on Higher Education Accreditation (CHEA) and the United States Department of Education.

B "Applicant" means a person who submits all materials necessary for evaluation of credentials including an application form, references, college or university transcripts, fees, and if applicable, a request for a provisional license.

C. "Board" means the South Carolina State Board of Long Term Health Care Administrators.

D. "Community residential care facility" means any facility defined for licensing purposes under law or pursuant to regulations for community residential care facilities promulgated by the South Carolina Department of Health and Environmental Control, whether proprietary or nonprofit.

E. "Community residential care facility administrator" means a person who has attained the required education and experience, is otherwise qualified, has been issued a license by the Board and is eligible to administer, manage, supervise, or be in administrative charge of a community residential care facility.

F. "Continuing education credit" is defined as one contact hour of a planned program of teaching-learning that has been approved by an organization empowered by the Board to award credit for continuing education.

G. "Dual licensee" means a person who holds a license as a nursing home administrator and a community residential care facility administrator.

H. "Habilitation center for the mentally retarded or persons with related conditions" means a facility which is licensed by the Department of Health and Environmental Control that serves four or more mentally retarded persons with related conditions and provides health or rehabilitative services on a regular basis to individuals whose mental and physical conditions require services including room, board, and active treatment for their mental retardation or related conditions.

I. "Inactive license" means a license issued to an administrator who is not working as an administrator in a nursing home or as an administrator in a community residential care facility.

J. "Licensee" means an approved applicant who has passed the examination, as prescribed by the Board, has paid all the fees, and has been issued a current license by the Board.

K. "Nursing home" means any institution or facility defined as such for licensing purposes under law or pursuant to regulations for nursing homes promulgated by the South Carolina Department of Health and Environmental Control, whether proprietary or nonprofit, including, but not limited to, nursing homes owned or administered by the State or political subdivision thereof. The definition does not include habilitation centers for the mentally retarded or persons with related conditions.

L. "Nursing home administrator" means a person who has attained the requisite education and experience, is otherwise qualified, and has been issued a license by the Board and is eligible to administer, manage, supervise, or be in administrative charge of a nursing home.

M. "Person" means an individual and does not include the following: a firm, a corporation, an association, a partnership, or any other group of individuals.

N. "Practical experience in nursing home administration" means full time employment (minimum of 36 hours per week) under the on-site supervision of a licensed Nursing Home Administrator in a state licensed nursing home. The number of years of experience required is dependent on educational preparation as delineated in 93-70. The beginning administrator or intern shall be responsible and accountable for a minimum of six months, by providing supervision in at least two of the three following areas:

1. Business and fiscal management;
2. A direct patient-care service, such as nursing, physical, occupational, or speech therapy, chaplaincy, social work, activities;
3. A supporting service, such as dietary, maintenance, engineering, laundry, environmental services, or pharmacy.

O. "Practice of nursing home administration" means the managing, supervising or general administration of a nursing home.

P. "Practice of community residential care facility administration" means the managing, supervising or general administration of a community residential care facility.

Q. "Provisional license" means a temporary license that is issued when substantiated by need when an applicant who meets examination qualifications has been appointed the administrator of a nursing home or a community residential care facility which is without a licensed administrator in charge.

R. "Qualified mental retardation professional" means a person who, by training and experience, meets the requirements of applicable federal law and regulations for a qualified mental retardation professional, as determined by the South Carolina Department of Disabilities and Special Needs.

S. "Related health care administration" means the administration of a facility that provides direct nursing care on a twenty-four hour basis to persons who require health services because of illness, age, or chronic disability. Administration of a Retirement/Residential Care Facility is not accepted as related health care administration.

T. "Administrator-in-Training (AIT)" is a person participating in a Board approved training program within a nursing home or a community residential care facility under the supervision of a Board approved preceptor.

U. "Preceptor" is a person who is a licensed nursing home administrator or a licensed community residential care facility administrator and meets the requirements of the Board to supervise an administrator-in-training during the training period as delineated in 93-80.

93-60. Board of Examiners; Officers and Duties.

A. The Board shall elect annually from among its members a chairman and vice-chairman who together shall constitute the executive committee.

B. The chairman shall preside at all meetings of the Board and shall sign all official documents of the Board, unless otherwise assigned to the Executive Director. In the absence of the chairman, the vice chairman shall preside at meetings and perform all duties usually performed by the chairman.

93-65. Operating a Facility Without a License.

A. No nursing home or community residential care facility within the State may operate except under the supervision of a licensed administrator.

B. Violation of the following standards will be considered an unprofessional act that is likely to harm the public.

(1) For combinations of Community Residential Care Facilities and/or other licensed facilities, having the same licensee, on one property, regardless of the number of beds, one full-time licensed administrator must be on site or available during normal business hours.

(2) For one Community Residential Care Facility with more than ten beds on one property, there must be a full-time licensed administrator on site or available during normal business hours.

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(3) For one Community Residential Care Facility with ten beds or less on one property, there must be an administrator who is on site a minimum of twenty hours per week with time spent in the facility during normal business hours, equitably distributed daily.

(4) When a combination situation exists that does not comply with item (1) above, a second facility must be ten or fewer beds and be within the same five number zip code or no further than a twenty mile radius of the combination site, and the work hours of the administrator must be equitably distributed daily during normal business hours.

93-70. Pre-examination and Licensing Requirements.

A. (Remains the same)

B. A person applying to become an administrator of a health facility licensed under this article including, but not limited to, nursing homes and community residential care facilities shall undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine state criminal history and a federal fingerprint review to be conducted by the Federal Bureau of Investigation to determine other criminal history. If a fee is charged by the Federal Bureau of Investigation for the fingerprint review, it must be paid by the person applying for administrator. Where licensees are governmental agencies, the criminal check must be obtained on the individual who is the administrator of the governmental facility. The Board may deny an application for licensure where the results of the check meet the misconduct provisions of these regulations.

C. Any applicant who has been declared ineligible to take the examination shall be given written notification by the Board of disqualification, the reasons, and his right to a hearing.

D. If an applicant has been convicted of a felony or misdemeanor involving moral turpitude by any state or federal court of competent jurisdiction thereof shall not be permitted to take the examination for licensure, unless the applicant shall first submit to the Board a copy of the certificate of pardon granted by the board of parole which shall indicate among other things that the applicant has completed all sentences including all periods of probation or parole. In the case of a conviction in any jurisdiction wherein the laws do not provide for a certificate of pardon, an equivalent written statement or document shall be submitted.

93-80. Administrator-in-Training Program Requirements.

A. A person shall be permitted to participate in the AIT program who submits sound evidence satisfactory to the board that he meets the following criteria:

1. Nursing home administrator AIT candidates must have earned a baccalaureate degree from an accredited college or university or must be enrolled in a course of study that will award such a degree on completion.

(a) For nursing home administrator AIT candidates with a baccalaureate degree in health care administration, the duration of an AIT internship shall be six months.

(b) For nursing home administrator AIT candidates with a baccalaureate degree other than health care administration, the duration of an AIT internship shall be nine months.

2. Community residential care facility administrator AIT candidates must have earned a health related associate degree or baccalaureate degree from an accredited college or university or must be enrolled in a course of study that will award such a degree upon completion.

(a) For community residential care facility administrator AIT candidates with a health related associate degree or baccalaureate degree, the duration of the AIT internship shall be 3 months.

(b) For community residential care facility administrator AIT candidates with a non health related associate degree or baccalaureate degree, the duration of the AIT internship shall be 6 months.

B. An AIT candidate must register with the Board by completing the Board-approved form and submitting the registration fee of \$25.00. After approval the Board shall issue an AIT training permit to the applicant valid for up to one year. If the preceptor or AIT terminates the program, the Board will invalidate the permit immediately.

C. The candidate may indicate a preceptor of his choice from a list of Board-approved preceptors. It shall be the responsibility of the candidate to contact the preceptor to determine if the preceptor will accept the AIT. Once a preceptor accepts an AIT, this must be reported to the Board. The preceptor shall not train an employer or supervisor.

D. The preceptor shall meet the following criteria:

1. Currently licensed in this state;

2. (a) The Nursing Home Administrator preceptor must have been licensed for the previous three years;

(b) The Community Residential Care Facility Administrator must have been licensed for the previous two years;

3. Have no disciplinary sanctions against the license;

4. (a) The Nursing Home Administrator preceptor must be employed as the administrator of record in a facility licensed under the regulations promulgated by the Department of Health and Environmental Control and demonstrate knowledge of third party funding programs.

(b) The Community Residential Care Facility Administrator preceptor must be employed as the administrator of record in a facility licensed for at least 25 beds under the regulations promulgated by the Department of Health and Environmental Control and demonstrate knowledge of third party funding programs.

E. The preceptor must register on an approved form with the Board. The Board shall, for good cause, refuse to approve or renew a preceptor.

F. A preceptor shall supervise no more than one AIT concurrently, and an AIT shall train at one site, not multiple facilities.

G. The preceptor will evaluate the background and experience of the AIT to determine specific areas of concentration. The preceptor and AIT will then design a course of study and present it to the Board for approval. The curriculum shall follow the guidelines set forth in a standards manual approved by the Board. A recoupment fee for the manual not to exceed \$50.00 will be imposed on the preceptor.

H. The preceptor shall maintain a current checklist in the facility tracking progress of the AIT. This checklist may be requested and reviewed at any time by the Board. On completion of the program, the checklist shall be submitted with the final report and evaluation.

I. At the end of the AIT program, the preceptor will submit a final report and evaluation of the AIT on Board approved forms stating whether the AIT has satisfactorily completed all requirements. The final report and evaluation will become part of the AIT's permanent record with the Board.

J. Any change in preceptor requires notice to and approval by the Board. An internship which has been discontinued by a period of military service shall be allowed to be completed within a year after the service. The Board must receive notice in the event of discontinuance of training for any other reason and the AIT must comply with section (B) upon recommencement of the program.

K. The preceptor shall notify the AIT of his performance as the program progresses. If the performance is not acceptable, the preceptor will inform the AIT, and the AIT will be given the opportunity to correct the deficiencies.

L. Following the completion of the AIT program:

1. the nursing home administrator AIT may apply for licensure as a nursing home administrator as delineated in Regulation 93-70 but is not required to complete any of the qualifying work experience set forth in Regulation 93-70(A)(1).

2. the community residential care facility administrator AIT may apply for licensure as a community residential care facility administrator as delineated in Regulation 93-70 but is not required to complete any of the qualifying work experience set forth in Regulation 93-70(A)(2).

93-100. Fees [and Fee Schedule].

A. The Board shall set fees in amounts to be sufficient to provide for administering the Act.

B. The fees categories are listed on attachment A.

C. The fee for the initial licensure period shall be payable and remitted after an applicant has been notified that he has successfully completed the examination and has fully established all qualifications. The certificate of licensure shall be issued to the applicant after the Board receives the fee for the initial licensure period.

D. The fee for the initial licensure period shall not be reduced by the amount of the fee previously remitted for a provisional license.

E. The annual renewal fee shall be due and payable on or before the expiration date of the license. The penalty fee for reinstatement shall be added after the expiration date of the license.

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ATTACHMENT A

NURSING HOME ADMINISTRATOR'S FEE SCHEDULE

Application for Licensure	\$200
Application for Re-examination	\$135
Provisional License	\$500
Initial Licensure period	\$175
Annual Renewal:	
Active Status	\$175
Inactive Status	\$135

COMMUNITY RESIDENTIAL CARE FACILITY ADMINISTRATOR'S FEE SCHEDULE

Application for Licensure	\$100
Application for Re-examination	\$ 65
Provisional License	\$250
Initial Licensure Period	\$150
Annual Renewal:	
Active Status	\$150
Inactive Status	\$115

CHARGES FOR BOTH CLASSES OF ADMINISTRATORS

Reinstatement of a Lapsed License (Penalty per month, not to exceed twelve months)	
1st and 2nd month	\$ 50
3rd through 12th month	\$ 25
Transfer of Information to Another State	\$ 50
Record Change	\$ 25
Record Change and Reissue of Certificate	\$ 50
Copy of Licensee Lists	\$ 20
Labels for license list	\$100
Copy of Regulations	\$ 5
Application for Approval of Continuing Education:	
By a Sponsoring Organization	\$100
For a repeat presentation	\$ 25
By an Individual	\$ 15
State and federal fingerprint reviews	\$ 38

93-110. Examination; Scheduling and Grading.

- A. Examinations are available year round through computer based testing.
- B. The Board shall administer the examinations.

(1) Nursing home administrator applicants will sit for a two part examination. The national portion is prepared by the National Association of the Boards of Examiners for Long Term Care Administrators (NAB). The South Carolina portion is prepared by the South Carolina Board and examines applicants on regulations promulgated by the Department of Health and Environmental Control as they relate to Nursing Homes.

(2) Community Residential Care Facility Administrator applicants will sit for a two part examination. The national portion is prepared by the National Association of the Boards of Examiners for Long Term Care Administrators (NAB). The South Carolina portion is prepared by the South Carolina Board relating to

regulations promulgated by the Department of Health and Environmental Control as they relate to Community Residential Care Facilities.

C. The content, form, and character of the examination shall be the same for all applicants on any one examination.

D. The grade standards shall be provided to each applicant before he takes the examination.

E. Every nursing home applicant for licensure shall be required to pass the NAB examination. In addition, each applicant must pass a State examination approved by the board at a raw score of seventy-five (75%) percent.

F. Every community residential care facility applicant shall be required to pass the NAB examination. In addition, the applicant must pass a State examination approved by the board with a raw score of seventy-five (75%) percent.

G. The Board shall provide to each applicant who completes an examination a report of their examination scores. Applicants shall be notified of the results of each examination by mail only.

H. The Board shall not disclose the grade levels achieved by an applicant to anyone outside the Board except upon written authorization of the applicant.

I. A nursing home applicant who is sitting for the first time for both the national and South Carolina portions of the examination and who receives a passing score in either portion shall be entitled to receive credit for the portion passed and to be re-examined during the next scheduled examination only on the portion not passed. Credit for passing either portion of the examination may be extended upon the approval of the Board.

J. A community residential care facility applicant who is sitting for the first time for both the national and South Carolina portions of the examination and who receives a passing score in either portion shall be entitled to receive credit for the portion passed and to be re-examined during the next scheduled examination only on the portion not passed. Credit for passing either portion of the examination may be extended upon the approval of the Board.

K. An applicant who fails to pass the examination may apply to re-take the examination once. An applicant who has failed the examination twice must petition the Board if he desires to pursue licensure.

93-120. Initial Licenses.

A. An applicant who has successfully complied with the requirements of the licensing law and the standards provided for herein, passed the examination provided for herein, and paid the fees for the initial licensure period shall be issued a license as a Nursing Home Administrator or as a Community Residential Care Administrator.

B. The certificate of licensure shall be issued on a form provided for that purpose by the Board, certifying that the applicant has met the requirements of the law and regulations entitling him to serve, act, practice, and otherwise present himself as a duly licensed Nursing Home Administrator or Community Residential Care Administrator.

C. A license cannot be transferred to another individual.

93-130. Provisional Licenses.

A. In the event of an unexpected vacancy caused by the death of an administrator, departure of an administrator, or similar event, the Board may issue a provisional license to an applicant who has met the criteria in 93-70 A (1), (2), B, and C and has paid the initial application fee, but who has not passed the examination.

B. An applicant for a provisional license shall submit a complete application. The application shall also include a letter from the owner of the facility of which the applicant will be appointed the administrator or from an officer of the facility's board of directors, which states all of the following:

- (1) The need for a provisional license;
- (2) The name of the appointed administrator;
- (3) The date of the appointment;
- (4) A specific request that the Board issue a provisional license to the named administrator.

C. An applicant shall remit the provisional license fee after receiving notice that the application has been approved. A letter of provisional licensure shall be issued after receipt of the fee.

D. The Department of Health and Environmental Control shall be notified of the issuance of each provisional license.

E. A provisional license will expire 90 days from issue or upon the issue of an initial license, whichever occurs first. A request for extension must be made in writing prior to the expiration date and must state extenuating

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circumstances if the provisional licensee has not taken the appropriate examination. No provisional license can be renewed so as to extend more than 180 days from the date first issued.

F. If the provisional nursing home licensee does not pass either the national or South Carolina portions of the examination, the provisional license will be extended until the applicant takes the next scheduled examination, provided the facility engages the services of a consultant administrator for a minimum of sixteen (16) hours per month. The consultant administrator must have a minimum of two years of experience operating a facility. If the applicant fails the examination the second time, the provisional license will be terminated at the end of the provisional license period.

G. If the provisional community residential care facility licensee does not pass either the national or South Carolina portions of the examination, the provisional license will be extended until the next scheduled examination, provided the community residential care facility engages the services of a consultant administrator for a minimum of sixteen (16) hours per month. The consultant administrator must have at least two years experience of operating a facility. If the provisional licensee fails the examination the second time, the provisional license will be terminated at the end of the provisional license period.

H. If any applicant fails to present himself for the examination, the provisional license will terminate at the close of business on the day of the examination.

I. All applicable fees apply for the second application and second examination.

J. A provisional license cannot be transferred to another individual.

93-150. Inactive or Retired Status Licenses.

A. The board may consider a request from a licensee for an inactive or retired status.

B. To qualify for inactive or retired status, the licensee must not be employed in a nursing home or a community residential care facility in the State.

C. An application for inactive or retired status shall be submitted to the board with the fee for inactive or retired status renewal on or before the expiration date of the current license.

D. In order to qualify for retired status the applicant must have attained the age of sixty five (65) years.

E. In order to reactivate an inactive license, an applicant must submit an application on a form approved by the board, along with the required fee, and proof of the annual continuing educational requirements. In order to reactivate a retired license, an applicant must submit an application on a form approved by the board, along with the required fee, and proof of twenty (20) hours of continuing education during the previous twelve (12) months and six (6) hours of continuing education for every year the licensee has been retired. If the applicant has been retired for five (5) years or more, the board may require the applicant to pass an examination approved by the board.

93-160. Registration of Licenses.

A. Every person who is licensed as a nursing home administrator or a community residential care facility administrator by the Board shall immediately be deemed registered with the Board and issued a certificate of licensure.

B. Only a person who is licensed as a nursing home administrator or a community residential care facility administrator pursuant to the provisions of these regulations for the current licensure period shall have the right and privilege of using the title of "Nursing Home Administrator" or "Community Residential Care Facility Administrator." No other person shall use or shall be designated by title or by abbreviation or any other words, letters, sign, card, or device tending to or intended to indicate that the person is a licensed Nursing Home Administrator or a Community Residential Care Facility Administrator.

C. The Board shall maintain a register of all licensed administrators and applicants.

D. All licensees must notify the Board in writing within fifteen (15) days of any change of address and employment in a nursing home or community residential care facility.

93-170. Display of Certificate and Normal Work Hours.

A. Every person currently licensed as a Nursing Home Administrator or Community Residential Care Facility Administrator shall display the certificate in a conspicuous place in his office or place of business or employment.

B. Licensed Administrators must post their normal work hours in a conspicuous place at the nursing home or community residential care facility where he is practicing as the Administrator. Work hours may vary from week

to week if the posting is updated appropriately. Administrators will maintain records of their posted hours for at least one year.

93-200. Continuing Education for Relicensure.

A. Each applicant for renewal of a license shall present evidence of having earned the required number of hours of continuing education as defined in 93-50(G).

B. Evidence of continued learning appropriate to facility administration shall consist of one (1) or more of the following:

(1) records of continuing education hours awarded by an accredited college or university or approved association or professional society; or

(2) official transcripts and course descriptions of courses taken at an accredited educational institution; or

(3) certificate of attendance received for attending other continuing education programs that have been registered with the board and approved by the board for credit.

C. The board shall establish methods, procedures, and criteria for approving programs of continuing education.

D. A nursing home administrator must have twenty (20) hours of continuing education for relicensure with five (5) hours in patient care. A Community Residential Care Facility Administrator must have eighteen (18) hours of continuing education. When an administrator serves both types of facilities, twenty-nine (29) hours of continuing education is required; five (5) hours of the twenty-nine (29) must be devoted to community residential care.

E. Carry-over: Continuing Education Hours for any board-approved program may be carried forward, in their entirety, if they are in excess of that required for any licensure period. Such carry-over hours must represent the total earned during the continuing education program and must be used during the following licensure period.

93-210. Reinstatement of Lapsed License.

A. An administrator previously duly licensed in this State whose license shall not have been revoked or suspended but whose license has lapsed for failure to renew on or before the expiration date of his license may seek to reinstate the license within a one year period after the expiration date by submitting an application with the annual renewal fee and a penalty fee as listed on Attachment A for reinstating the lapsed license, provided that the continuing education requirements in 93-200 are met.

B. If the lapsed license period is more than one year, the individual shall meet the requirements in 93-70.

93-220. Complaints.

A. The Department shall be responsible for investigating complaints, either directly or indirectly, relating to administrators.

B. The Department has the responsibility to evaluate complaints and investigative information received from the South Carolina Department of Health and Environmental Control or any other source.

C. A complaint received by the Board shall be referred to the appropriate agency or agencies for investigation.

D. The Licensed Administrator must respond in writing to the Board when requested. The Department may request in writing that the administrator file a written response to the initial complaint. Failure to do so in a timely manner may be grounds for discipline.

E. The findings and the corrective measures taken by the investigating agency or agencies, with any other information deemed appropriate, shall be reviewed by the Board for the purpose of improving the standards imposed for licensing, for decisions on revocation or suspension of license or other disciplinary actions, and for assessing the qualifications for relicensure of an administrator.

F. Information pertaining to a complaint shall be kept in a confidential file. A cross-reference shall be kept in the administrator's file so that all complaint information may be re-evaluated if a subsequent complaint is received.

93-230. Suspension and Revocation of License.

Misconduct, which constitutes grounds for revocation, suspension, or other restriction of a license or limitation or other discipline of a licensee, is a satisfactory showing to the board of:

(1) Use of a false, fraudulent, or forged statement or document or committing a fraudulent, deceitful, or dishonest act or omitting a material fact in obtaining licensure under this article;

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(2) Acting in a manner inconsistent with the health or safety of the patients of the nursing home or community residential facility;

(3) Cancellation, revocation, suspensions or other discipline of a license to practice any regulated profession or occupation in any state or jurisdiction;

(4) Failing to ensure that the nursing home or community residential care facility in which he is an administrator complies with the provisions of law and regulations of the licensing or supervising authority or agency whether federal, state, or local, having jurisdiction over the operation and licensing of the nursing home or community residential care facility;

(5) Intentional or knowing, direct or indirect, violation of or the aiding and abetting in the violation of this article or a regulation promulgated under this article;

(6) Failing to operate a nursing home or community residential care facility in manner which ensures the safety, health, and welfare of the patients;

(7) Use of a false, fraudulent, or forged statement in the practice of nursing home administration or community residential care facility administration;

(8) Supervising or aiding an unlicensed person in the practice of nursing home administration or community residential care facility administration;

(9) Permitting unauthorized disclosure of information relating to a patient in a nursing home or community residential care facility under his administration;

(10) Obtaining compensation or assisting in obtaining compensation under fraudulent circumstances.

(11) A dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public.

(12) Use of alcohol, drugs, or controlled substances to such a degree as to adversely affect the ability to act as a nursing home administrator or community residential care facility administrator.

(13) A mental or physical disability or addiction which renders further practice dangerous to the public or to the residents of the nursing home or community residential care facility.

(14) Conviction of, or pleading guilty or nolo contendere to, a felony, as defined under the law of this State, or any crime involving the safety, health, or welfare of a resident, or any other crime involving moral turpitude. The license of a person who is convicted of, or who pleads guilty or nolo contendere to those crimes mentioned in this item immediately may be suspended temporarily pending final disposition of a disciplinary proceeding to be commenced upon the conviction or the entry of the plea of guilty or nolo contendere. A person so suspended must be reinstated immediately upon the filing of a certificate that the conviction has been reversed. The reinstatement does not terminate a disciplinary action pending against the person. The license of a person may be suspended immediately pending final disposition of a disciplinary proceeding where the Board has probable cause to believe that continued practice as a nursing home administrator or community residential care facility administrator by the licensee constitutes harm to the safety, health, or welfare of patients in a nursing home or community residential care facility.

93-240. Hearing Procedure.

A. The Board may prefer charges against any licensee for due cause. A copy of the charges, together with notice of the time and place of the hearing, shall be served on the accused by certified mail directed to his address as recorded in the Board's files at least thirty days before the date fixed for the hearing.

B. Upon conclusion of the hearing, the Board may revoke the license of the accused, may suspend the license for a fixed period of time, may reprimand or take other disciplinary action, issue an order of suspension containing provisions concerning reinstatement of the license, or may dismiss the charges.

93-250. Conduct of Hearing.

A. At any hearing conducted pursuant to the regulations, any party to the proceedings may appear in person and with counsel, and he shall be given the opportunity to produce evidence and witnesses and to cross examine witnesses.

B. At any formal hearing conducted pursuant to these regulations, if a party shall appear without counsel, the Board shall advise such party of his right to be represented by counsel, to call witnesses, to cross examine witnesses, and to produce evidence in his behalf.

C. Appearances shall be noted on the official record of hearings.

D. The Board shall have authority to issue subpoenas and subpoenas duces tecum.

E. After the case has been heard, the Board may, in its discretion, hold the matter under advisement and prescribe requirements to be met by the licensee in order to avoid disciplinary sanctions. In that event, the Board shall issue, within a reasonable period of time and in no case longer than thirty days after the case is heard, a written order setting forth the requirements including the time frame within which compliance must be achieved. If the licensee makes a satisfactory showing to the Board of compliance with the order, the Board may enter an order finding satisfactory compliance and may dismiss the case.

F. Upon a determination by the Board that one or more of the grounds for revocation or suspension of a license or for otherwise disciplining a licensee exists in accordance with the provisions of these regulations, the Board may take any one or more of the following actions regarding the license or the licensee:

- (1) Issue a public or private reprimand;
- (2) Impose costs, not to exceed the actual costs of the Board in processing the disciplinary action against the licensee, including, but not limited to amounts expended for Board members' attendance at hearings, service of papers, witness fees and expenses, and court reporter;
- (3) Impose a fine not to exceed one thousand dollars for each ground of revocation, suspension, or other discipline, with the total amount imposed not to exceed ten thousand dollars;
- (4) Place the licensee on probation for a definite or indefinite time and prescribe conditions to be met during probation;
- (5) Suspend the license for a definite or indefinite time, and prescribe conditions to be met before readmission to practice;
- (6) Permanently revoke the license.

93-260. Applicability, Legal Effect and Severability of Regulations.

A. The regulations of the Board are intended to be consistent with the applicable Federal and State law and shall be so construed, whenever necessary, to achieve such consistency.

B. In the event that any provision of these regulations is declared unconstitutional or invalid or that the application of them to any person or circumstance is held invalid, the applicability of the provision to other persons and circumstances and the constitutionality or validity of every other provision of these regulations shall not be effected.

C. These regulations shall not affect pending actions or proceedings, civil or criminal, which may be prosecuted or defended in the same manner and with the same effect as though these regulations had not been promulgated.

D. The Board shall furnish copies of its regulations for a fee, which has been determined by the Board to be sufficient to cover the actual cost of copying. A copy will be sent without charge to Board members, state agencies upon request, applicants after the application fee has been paid, and licensees who have not previously received a copy.

E. In addition to the above, the rules of parliamentary procedure as set forth in "Robert's Rules of Order, Revised" shall govern all meetings.

Statement of Rationale:

There was no scientific or technical basis relied upon in developing the regulation.

Fiscal Impact Statement:

There will be no cost incurred by the state or any of its subdivisions.

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Resubmitted: February 24, 2004

Document No. 2821
DEPARTMENT OF PUBLIC SAFETY
CHAPTER 38

Statutory Authority: 1976 Code Sections 23-6-20 and 23-6-400 et seq

Article 7 Highway Patrol, Subarticle 1 Wrecker Regulations

Synopsis:

The changes will update existing regulations to enhance the administration of the Department's Wrecker Rotation List by clarifying the duties and responsibilities of wreckers on the rotation list and revising the system for handling complaints regarding wrecker rotation calls under the Department's Wrecker Rotation List.

Regulation 38-600 Addresses the application process for wreckers that wish to be added to the Department's Wrecker Rotation List, responsibilities of wrecker's that are placed on the list and the complaint procedure for handling complaints related to rotation calls under the Department's Wrecker Rotation List.

Instructions: Replace with language of new regulation 38-600.

Text:

38-600. REGULATION OF WRECKER SERVICES:

The following regulations shall be followed by all wrecker services utilized by the South Carolina Department of Public Safety.

A. GENERAL

1. No commissioned South Carolina Department of Public Safety employee will hold any financial interest of any form in any wrecker service.
2. No commissioned South Carolina Department of Public Safety employee will recommend any wrecker service to the owner or driver of a wrecked or disabled vehicle during the performance of their duties.

B. QUALIFICATION CRITERIA

1. All wreckers shall have appropriate safety equipment, fire extinguishers, warning devices, flash lights and all other equipment necessary to protect the motoring public and be equipped with amber flashing lights visible in all directions for a distance of 500 feet in normal sunlight. Such equipment shall be maintained in good working order. All authorized amber flashing lights shall be activated and wrecker operators shall wear reflective traffic safety vests while performing recovery operations or when circumstances are such that the vehicle(s) being transported create a potentially hazardous condition for other motorists.
2. Each wrecker service on the rotation list must place a sign on the driver and front passenger door of each of its wreckers indicating the company name, address, and telephone number of the zone to which it is assigned. This sign shall be painted on the doors of the wrecker or otherwise permanently affixed to the doors. The letters of the sign must be no less than two inches high. If the wrecker is registered in a name other than that of the wrecker service, the owner's name must also appear on the doors in letters no less than one inch high. All lettering on wreckers shall be plainly visible and shall be in a color that contrasts to that of the wrecker.

3. Each wrecker service on the rotation list must place a sign on the exterior of its business location clearly visible indication the company name, telephone number, and business hours.

4. Each wrecker service on the rotation list shall carry liability insurance on its wreckers and its premises in an amount not less than Three Hundred Thousand and no/100 (\$300,000.00) Dollars for a class A wrecker, Five Hundred Thousand and no/100 (\$500,000.00) Dollars for a class B wrecker and Seven Hundred Fifty Thousand and no/100 (\$750,000.00) Dollars for a class C wrecker.

5. Each wrecker service on the rotation list shall carry insurance that covers vehicles, cargo, and other property in or on the vehicle during transit in an amount of not less than Seventy Five Thousand and no/100 (\$75,000.00) for a class A wrecker, One Hundred and Fifty Thousand and no/100 (\$150,000.00) for a class B wrecker and Two Hundred Fifty Thousand and no/100 (\$250,000) for a class C wrecker.

6. Each wrecker service on the rotation list shall carry garage keeper's liability insurance covering customer's vehicles in an amount not less than One Hundred Thousand and no/100 (\$100,000.00) for a class A wrecker, Two Hundred Thousand and no/100 (\$200,000.00) for a class B wrecker and Two Hundred Thousand and no/100 (\$200,000.00) for a class C wrecker.

7. Each wrecker owned by any wrecker service on a rotation list shall be equipped with a towing log. The towing log shall be maintained by the wrecker service and shall accurately reflect all towing done by the wrecker service at the request of the South Carolina Department of Public Safety. The South Carolina Department of Public Safety shall design the wrecker log format. Each wrecker service owner shall be responsible for producing this towing log upon request by a Department of Public Safety Inspector.

8. Wrecker operators must display professional behavior when conducting business at the request of the South Carolina Department of Public Safety.

9. Wrecker services and operators shall be familiar with and shall comply with the laws regarding solicitation from the highway. (Section 56-5-3180 of the South Carolina Code of Laws)

10. A new rotation list will be created each calendar year. A wrecker service desiring to be on the rotation list in the next year must apply in writing by October 1st and be inspected and qualified prior to December 31st. On December 31st of each year the Department of Public Safety will publish the wrecker rotation list to be effective January 1st of the following year.

11. A wrecker service not currently on the South Carolina Department of Public Safety wrecker rotation list and desiring to be added may apply in writing at any time but must first be inspected and qualified.

12. A wrecker service that fails to pass inspection and qualification as prescribed by regulation will be notified of the deficiencies. When the wrecker service corrects the deficiencies, it may request a new inspection.

C. WRECKER SERVICE ROTATION LIST/RESPONSIBILITIES

1. Each Highway Patrol Troop will establish zones for towing, and a wrecker rotation list will be prepared for each zone. A wrecker service requesting to be on the rotation list for a particular zone must physically have a business within that zone. The wrecker to be used for that zone must be housed at that location during normal business hours. . "Normal business hours" or "business hours" as used in this regulation means at least from 8:30 a.m. to 5:00 p.m., Monday through Friday and additional hours designated and posted by the company. The vehicle towed must be towed to the same business location where the wrecker is housed during normal business hours, unless the vehicle owner or operator requests that the vehicle be towed to another location. Normal business hours must be clearly posted. Storage lots are not considered as a separate business. A wrecker service or owner can only be on the list one time in any zone. There will only be one telephone number for one wrecker

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service at any one address on rotation. Pagers and cellular phones are not acceptable. A wrecker service must immediately notify the Highway Patrol upon change of address or telephone number.

2. Separate rotation lists will be maintained for each category of wreckers. When the services of a categorized wrecker are needed and when the owner or driver of the vehicle to be towed has no preference as to which wrecker service he/she desires, a wrecker will be called from the appropriate wrecker rotation list. The investigating officer will use his/her discretionary authority to deny request for specific wrecker service whenever the request will delay the timely restoration of safe traffic movement.

3. The wrecker service must have a wrecker of sufficient size and strength to handle the job. The South Carolina Department of Public Safety will have the right not to call a wrecker service that, in its opinion, fails to meet this qualification for a specific job. Under these conditions, the wrecker service not called will remain on the top of the rotation list.

4. Wreckers shall respond only upon the request of the Department of Public Safety.

5. Wrecker services will be called from the rotation lists in the order in which they appear on the lists. If a particular wrecker service is unavailable when called, it will be passed over and the next wrecker service on the list will be called to the scene.

6. Wrecker services shall be located within the established wrecker zone available to the South Carolina Department of Public Safety to respond to rotation calls as well as request by the Department for the immediate release of personal property on a twenty-four hour, seven day a week basis. The wrecker service location shall have an agent present during business hours and at the request of the owner of the towed vehicle or his designee, the wrecker service must immediately release personal items such as medicines, medical equipment, keys, clothing, and tools of the trade, child restraint systems and perishable items. The wrecker service shall also be available for the release of the towed vehicle to the vehicle owner or vehicle owner's designee on a reasonable after-hours basis, including weekends. Should there be a dispute between the vehicle owner or the vehicle owner's designee and the wrecker service regarding any storage fees or charges, the vehicle owner or the vehicle owner's designee must provide the wrecker service written notification of the dispute. If the dispute is settled in favor of the wrecker service then the owner of the towed vehicle is liable for all charges which accrued pending the resolution. The wrecker service must cease any storage charges that would otherwise accrue from the time the wrecker service receives written notification of the dispute until the dispute is settled. Upon release of the vehicle, the wrecker service shall provide an itemized statement of all charges. If the vehicle owner is not available to sign a release, the wrecker service must release the vehicle to the owner's insurer or to the owner's designee.

7. The wrecker service must be willing to accept collect calls from the South Carolina Department of Public Safety. If a call is refused or unanswered, the wrecker service will lose that rotation call.

8. When a wrecker service or wrecker driver is unable to answer a call, the Patrol shall be promptly notified of the reason for the unavailability. A wrecker service or driver cannot refuse a call without prior notification of unavailability or without just cause.

9. Unless the owner or driver of a vehicle is incapacitated or unavailable, the investigating officer at the scene will make a determination of the owner or driver's preference of a wrecker service. The investigating officer will use his/her discretionary authority to deny request for a specific wrecker service whenever the request will impair the timely restoration of safe traffic movement. In the event the owner or driver of the vehicle does not have a preference or preference cannot be determined, the investigating officer will utilize a wrecker from the rotation list. The wrecker service responding to such call shall provide the vehicle operator with a card containing the wrecker service name, address, telephone number and business hours.

10. A wrecker service shall respond, under normal conditions, in a timely manner not to exceed 45 minutes. Failure to respond in a timely manner may result in a second rotation wrecker being requested. If the second

wrecker is requested before the arrival of the first rotation wrecker, the initially requested wrecker will forfeit the call and will immediately leave the collision/incident scene.

11. A wrecker service may respond with a wrecker of a higher class than requested. However, wrecker service is limited to the rates of the requested classification.

12. It shall be the responsibility of the wrecker service to perform a general clean-up of the accident area before leaving the scene of any accident. This responsibility requires the wrecker service to remove all debris such as broken glass, liquids, and materials from an accident area by sweeping up such debris and removing this material from the scene in a garbage can-type container on each wrecker. All wreckers shall be equipped with brooms, shovels, commercial absorbent and all other equipment necessary to fulfill this responsibility.

13. Each wrecker service shall be responsible for securing personal property in a vehicle at an accident scene. The wrecker service shall be responsible for preserving personal property in a vehicle towed from an accident scene.

14. The wrecker service shall maintain the towed vehicle in a safe storage area in a manner that would prohibit further damage and ensure protection of personal property. This may be a locked building or a secured fenced-in area where the stored vehicles and other property will not be accessible to the public. Wrecker services may charge a daily storage fee, commencing 12 hours after the vehicle is towed to the storage area and terminating when the vehicle owner or vehicle owner's designee offers or attempts to pick up the vehicle and offers to pay the wrecker service's legitimate accrued charges.

a. Outside storage facilities must be sufficiently lighted, fenced, and locked for protection of vehicles and property.

b. Fencing around storage facilities must be of adequate size to discourage theft of vehicles and property stored within, and may not be less than six feet in height.

c. Inside storage, covers, tarpaulins, or other devices must be available for protection of vehicles or personal property.

15. A wrecker service may secure assistance from another wrecker service when necessary to complete the recovery; however, this does not supersede paragraph 3 of this section nor does it permit wrecker services to accept a rotation call and dispatch the call to secondary wrecker services. Only one bill is to be submitted to the owner or operator for the work performed.

16. Motorist utilizing the South Carolina Department of Public Safety Wrecker Rotation List will have the option of paying by major credit card. The wrecker service may request, prior to dispatching, if the motorist intends to pay by major credit card. If the wrecker service does not accept major credit cards, the next wrecker or towing service that does accept credit cards will be utilized. Any wrecker or towing service called that does not accept credit cards will remain on the top of the rotation list.

D. COMPLAINTS/DISCIPLINARY PROCEDURES

1. Complaints from or about wrecker services regarding an incident involving the Highway Patrol or its operation of the wrecker lists must be received within thirty days of the alleged incident. Complaints should be directed to the Captain of the Troop where the incident occurred. Complaints will be forwarded along with a report to the Colonel, or his designee, at Patrol headquarters. An appeal from the decision of the Troop commander should be made to the Colonel of the Highway Patrol.

2. The Department will enact a Wrecker Rotation Disciplinary Policy setting out the procedures for enforcing this regulation.

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3. Failure of any wrecker service to comply with this regulation will result in disciplinary action in accordance with the South Carolina Department of Public Safety Wrecker Rotation Disciplinary Policy.

4. If the Department has reason to believe that a wrecker service has failed to remain in compliance with qualification criteria set out in Section B, that the non-compliance continues, and that the non-compliance will be detrimental to the public, the Department may initiate immediate suspension procedures in accordance with the South Carolina Administrative Procedures Act.

5. An advisory committee, consisting of experts in the towing and towing related industries, will be created to review, upon request by the Department, complaints specific to the terms and conditions of this regulation. The advisory committee will be limited to reviewing specific issues raised in a complaint or appeal and making recommendations regarding the validity of the complaint as well as a fair and reasonable resolution. Advisory committee recommendations will not supercede Department of Public Safety policy nor will the committee make recommendations regarding disciplinary action for Department of Public Safety employees.

6. The advisory committee will be comprised of the following members:

- a. A Highway Patrol Major who will act as chairman.
- b. A Captain or higher-ranking member of the South Carolina State Transport Police (STP) appointed by the STP Colonel.
- c. A member of the South Carolina Trucking Association appointed by the association.
- d. A member of the South Carolina Towing and Recovery Association appointed by the association.
- e. Insurance.
- f. A representative from the SCDPS Office of General Counsel will act as a non-voting advisor.

7. All members of the advisory committee will serve for a period of one year beginning January 1st and ending December 31st. Members may serve consecutive terms. A quorum will be a majority of the voting members present.

E. WRECKER CLASSIFICATION

1. Class A: Light Duty Wrecker

Class A Wreckers, for towing vehicles weighing seven thousand (7,000) pounds or less, (passenger cars, pickup trucks, motorcycles, small trailers, and similar vehicles) shall meet the following minimum requirements:

- a. Conventional Wrecker
 - 1) Minimum gross vehicle weight rating (GVWR) of not less than ten thousand (10,000) pounds.
 - 2) Individual boom capacity of not less than eight thousand (8,000) pounds as rated by the manufacturer.
 - 3) Individual PTO or hydraulic power winch capacity of not less than eight thousand (8,000) pounds as rated by the manufacturer with at least one hundred (100) feet of three-eighths (3/8) inch cable drum.

4) A manufactured wheel-lift with a retracting lifting capacity of not less than three thousand five hundred (3,500) pounds as rated by the manufacturer, with safety chains.

5) Come-A-Longs, chains, or other similar devices shall not be used as substitutes for winch and cable.

6) Dual rear wheels.

7) Additional safety equipment as specified by the regulations.

b. Rollback Wrecker

1) Minimum gross vehicle weight rating (GVWR) of not less than eleven thousand (11,000) pounds.

2) Must have at least an eight thousand (8,000) pound winch as rated by the manufacturer with at least fifty (50) feet of three-eighths (3/8) inch cable or larger.

3) Come-A-Longs, chains, or other similar devices shall not be used as substitutes for winch and cable.

4) Additional safety equipment as specified by the regulations.

2. Class B: Medium Duty Wrecker

Class B Wreckers, for towing vehicles weighing between seven thousand one (7,001) and seventeen thousand (17,000) pounds or multiple vehicles weighing seven (7,000) pounds respectively (medium-sized trucks, road tractors/trailers and similar vehicles), shall meet the following requirements:

a. The tow truck chassis shall have a minimum gross vehicle weight rating (GVWR) of not less than twenty two thousand (22,000) pounds.

b. Must have at least a twelve-ton boom assembly as rated by the manufacturer.

c. Two winches, each of ten thousand pound capacity or more as rated by the manufacturer.

d. A manufactured wheel-lift with a retracting lifting capacity of not less than six thousand five hundred pounds as rated by the manufacturer, with safety chains.

e. Come-A-Longs, chains, or other similar devices shall not be used as substitutes for winch and cable.

f. Additional safety equipment as specified by the regulations.

3. Class C: Heavy Duty Wrecker

Class C Wreckers, for towing vehicles in excess of seventeen thousand pounds (large trucks, road tractor/trailers and similar vehicles), shall meet the following minimum requirements:

a. Truck chassis having a minimum gross vehicle weight rating (GVWR) of not less than forty six thousand pounds.

b. Tandem axles or cab to axle length of not less than one hundred two inches.

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c. A single or double boom with a capacity of not less than fifty thousand pounds as rated by the manufacturer.

d. A single winch with a capacity of fifty thousand pounds as rated by the manufacturer or an individual power winch capacity of not less than twenty-five thousand pounds as rated by the manufacturer and a total rating with both winches of fifty thousand pounds.

e. A manufactured wheel-lift with a retracting lifting capacity of not less than twelve thousand pounds as rated by the manufacturer, with safety chains.

f. One hundred fifty feet of five-eighths inch cable or larger, plus fifty feet of five-eighths inch drop cable.

g. Airbrakes constructed so as to lock wheels automatically upon failure.

h. Light and air brake hookups.

i. Come-A-Longs, chains, or other similar devices shall not be used as substitutes for winch and cable.

j. Additional safety equipment as specified by the regulations.

F. RATES

1. Only wrecker services on the South Carolina Department of Public Safety wrecker rotation list shall be subject to these regulations governing fees.

2. Fees charged for rotation list calls shall be reasonable and not in excess of those rates charged for similar services provided in response to requests initiated by any other public agency or private person. The reasonableness of the fees charged will be determined in the following manner:

a. A wrecker service shall submit proposed fees along with its annual application. Separate fee schedules shall be submitted for each class of wrecker, and, for each class, the fee for standard towing, heavy-duty towing, storage, and special operations.

(1) A standard tow is defined as responding to the scene, hooking up the vehicle, performing a general clean up if the call involves responding to a collision scene and providing responsible assistance to the owner to get to a safe location.

(2) Special operations are operations involving the process of uprighting an overturned vehicle or returning a vehicle to a normal position on the roadway which requires the use of auxiliary equipment due to the size or location of the vehicle and/or the recovery of a load which has spilled, or the off-loading and reloading of a load from an overturned vehicle performed to right the vehicle.

b. The Troop commander will determine the reasonableness of the fees based upon the average of the proposed fees submitted and a comparison of that Highway Patrol Troop's industry standards, by wrecker zone, for similar operations.

c. A copy of the approved fees will be kept in the wrecker at all times. It will be presented upon request to the person for whom the tow services were provided, their agent, any Department of public Safety officer at the scene, or any Department of Public Safety supervisor who is inspecting the wrecker or wrecker service.

d. A wrecker service shall submit proposed fees with the annual application.

e. Failure to submit proposed fees with the annual application will result in utilizing the last proposed fees submitted.

f. Wrecker services that submit fees that are determined to be excessive or unreasonable will be notified and allowed to resubmit fees within five business days of notification. A wrecker service will be allowed to resubmit fees once. Failure to resubmit reasonable fees will disqualify the wrecker service from the Highway Patrol rotation list until January 1st of the following year.

3. The Troop commander will complete a review of the fees for Highway Patrol rotation wrecker services for the Troop during inspection and qualification to determine its validity and reasonableness.

Validity will be based upon telephone quotes, posted rates, charges to retail customers, etc. Reasonableness will be determined as compared to other rates.

4. Wrecker services may lower rates at any time and may raise rates for non-Department of Public Safety calls at any time.

Preliminary Fiscal Impact: The Department anticipates no fiscal impact as a result of these regulations.

Statement of Rationale: The Department consulted with industry members on changes that were necessary to update the regulations.