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# SOUTH CAROLINA STATE REGISTER

# PUBLISHED BY THE LEGISLATIVE COUNCIL of the GENERAL ASSEMBLY

STEPHEN T. DRAFFIN, DIRECTOR LYNN P. BARTLETT, EDITOR

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# Published September 28, 2007

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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.

# **2007** PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

# **Reproducing Official Documents**

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) 212-4500.

# **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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# **REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1**

#### In order by General Assembly review expiration date The history, status, and full text of these regulations are available on the South Carolina General Assembly Home Page: www.scstatehouse.net

Doc No.	RAT FINAL NO. ISSUE	Subject	Exp. Date	AGENCY
3119		Educational Requirements	1/13/08	LLR: Real Estate Appraisers Board
3116		Malpractice Insurance Claims	1/20/08	Department of Insurance
3117		Workers' Compensation Assigned Risk Rates	1/20/08	Department of Insurance
3109		Property Tax	1/29/08	Department of Revenue
3110		Restocking Fees	1/29/08	Department of Revenue
3122		Wildlife Management Area Regulations	4/13/08	Department of Natural Resources
3127		Chapter Revision	4/15/08	LLR: Veterinary Examiners
3125		Driver Schools and Truck Driver Training Schools	5/07/08	Department of Public Safety
3112		Environmental Protection Fees	5/07/08	Department of Health and Envir Control
3114		Tanning Facilities	5/07/08	Department of Health and Envir Control
3111		Coastal Division Regulations	5/07/08	Department of Health and Envir Control

#### Committee Requested Withdrawal:

3118	Mobile Dental Facilities and Portable Dental Operations	LLR: Board of Dentistry
3113	Solid Waste Management	Department of Health and Envir Control

Permanently Withdrawn:

**Resolution Introduced to Disapprove:** 

# **BUDGET AND CONTROL BOARD OFFICE OF RESEARCH AND STATISTICS**

# **PUBLIC NOTICE**

The Office of Research and Statistics, South Carolina Budget and Control Board proposes to amend Article 8, Data Reporting Requirements Pertaining to South Carolina Hospitals, Sections 19-810D, 19-810H, and 19-820B(1). The amendment shall require South Carolina hospitals to submit patient records (including newborns) directly to the Office of Research and Statistics on a monthly basis.

For further information, please contact Ms. Tracy Joyce, Office of Research and Statistics, South Carolina Budget and Control Board, 1919 Blanding Street, Columbia, SC 29201, at (803) 898-9948.

# DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### **PUBLIC NOTICE**

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 September 28, 2007, 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 Greenwood County

Replacement of the existing mobile Positron Emission Tomography/Computed Tomography (PET/CT) unit currently approved for use one (1) day per week with a mobile PET/CT to be used three (3) days per week Self Regional Healthcare Greenwood, South Carolina Project Cost: \$995,200

Affecting Lancaster County

Construction of a freestanding radiation therapy center to include the purchase and installation of one (1) fixed linear accelerator Lancaster Radiation Therapy Center Lancaster, South Carolina Project Cost: \$5,941,704

Affecting Spartanburg County

Relocation of the PMD2 1999 linear accelerator from Gibbs Regional Cancer Center to the Village at Pelham Cancer Center Spartanburg Regional Healthcare System d/b/a The Village at Pelham Cancer Center Greer, South Carolina Project Cost: \$7,289,753

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 September 28, 2007. "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 Charleston County Conversion of twenty-five (25) existing nursing home beds to general acute care beds for a total licensed bed capacity of two hundred ninety-six (296) general acute care beds Trident Medical Center Charleston, South Carolina Project Cost: \$682,827

Affecting Greenville County

Purchase of an open 1.0T Magnetic Resonance Imaging (MRI) unit to be located at the Patewood Outpatient Center Greenville Hospital System Greenville, South Carolina Project Cost: \$3,200,000

Affecting Horry County

Renovation for the addition of a Positron Emission Tomography/Computed Tomography (PET/CT) unit to be licensed as Freestanding or Mobile Technology (FSMT) Associated Medical Specialists, PA Conway, South Carolina Project Cost: \$1,346,676

Replacement of single-slice Computed Tomography (CT) scanner with a sixty-four (64) slice CT scanner with temporary use of a mobile CT unit during installation Loris Community Hospital Loris, South Carolina Project Cost: \$1,200,000

Affecting Kershaw County

Addition of eight (8) skilled nursing home beds resulting in a total of ninety-six (96) skilled nursing home beds of which eight (8) will not participate in the Medicaid (Title XIX) Program A. Sam Karesh Long Term Care Center Camden, South Carolina Project Cost: \$418,136

Establishment of an outpatient diagnostic center and medical office building to be located within the Wateree Executive Park Kershaw County Medical Center-Elgin Medical Complex Elgin, South Carolina Project Cost: \$19,682,404

Affecting Spartanburg County

Relocation of the PMD2 1999 linear accelerator from Gibbs Regional Cancer Center to the Village at Pelham Cancer Center Spartanburg Regional Healthcare System d/b/a The Village at Pelham Cancer Center Greer, South Carolina Project Cost: \$7,289,753

# 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.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

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/or individuals listed below, please submit your comments in writing, no later than October 29, 2007 to:

Contractor Certification Program South Carolina Department of Health and Environmental Control Bureau of Land and Waste Management - Underground Storage Tank Program Attn: Michelle Dennison 2600 Bull Street Columbia, SC 29201

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

Class II.

<u>Class I</u> <u>Enviro-Logical Solutions, Inc.</u> Attn: David E. Troutman 5147 West Clifton Street Tampa, FL 33634

The Vision Group, Inc. dba Ellis Environmental Attn: Mark T. Ellis PO Box 215 Lehi, UT 84043-0215

# DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Section 44-55-10 et seq.

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

The Department of Health and Environmental Control proposes to amend R.61-58, *State Primary Drinking Water Regulations*. Interested persons may submit their views in writing to Mr. Richard A. Welch, Compliance Assurance Division, Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 pm on October 29, 2007, the close of the drafting comment period.

#### Synopsis:

The Department proposes to revise the State Primary Drinking Water Regulations to include, but not be limited to, requirements promulgated under the National Primary Drinking Water Regulations: Ground Water Rule. This rule applies to all public water systems that use ground water except for systems that also use surface water or ground water under the direct influence of surface water. The regulation may require source water monitoring, treatment technique requirements, and new reporting requirements. Water systems must comply with these requirements beginning December 1, 2009. The proposed regulation revision will amend the State Primary Drinking Water Regulations to comply with requirements of 40 CFR Parts 141 and 142. The final Ground Water Rule was published in the November 8, 2006 Federal Register.

To maintain consistency with federal regulations, the Department will also revise the State Primary Drinking Water Regulations to reinsert inadvertently-deleted language, to update outdated references, to delete requirements that no longer apply, and make other minor additions and revisions. These corrections are being made to conform R.61-58 to federally mandated regulations promulgated from the period June 29, 1989 to November 8, 2006 pursuant to 40 CFR 141.

The proposed regulations will comply with federal law and are exempt from legislative review; neither a preliminary assessment report nor a fiscal impact statement is required.

# COMMISSION ON HIGHER EDUCATION CHAPTER 62 Statutory Authority: 1976 Code Section 59-58-10 through 59-58-140

#### Notice of Drafting:

The South Carolina Commission on Higher Education is considering amendments to the regulations concerning nonpublic postsecondary institution licensing. Interested persons should submit their views in writing to Renea H. Eshleman, Coordinator, Nonpublic Postsecondary Institution Licensing, Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, South Carolina 29201. To be considered, all comments must be received no later than October 29, 2007, at 10:00 AM.

#### Synopsis:

Under the "Nonpublic Postsecondary Institution License Act" (Section 59-58-10 through 140) the General Assembly established a South Carolina Commission on Higher Education administered program for the licensure of certain nonpublic postsecondary institutions operating or soliciting in South Carolina. The South Carolina Commission on Higher Education administers the Act under its Regulations 62-1 through 28.

The proposed change to Regulation 62-7 will allow the Commission to use surety bond funds and monies in a student recovery fund to pay refunds of unearned tuition and fees, to pay for or subsidize the cost of providing facilities and instruction to complete programs, or pay expenses to store and maintain student records.

# DEPARTMENT OF INSURANCE

CHAPTER 69 Statutory Authority: S.C. Code Ann. Sections 38-3-60, 38-63-10, 38-65-10, 38-69-10, and 38-57-10 *et seq*.

#### Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-30, Solicitation of Life Insurance. Interested persons should submit their views in writing to: Leslie M. Jones, Executive Assistant to the Director & Consulting Actuary, South Carolina Department of Insurance, 145 King Street, Suite 207, Charleston, South Carolina 29401. To be considered comments must be received no later than 5:00 p.m. on November 2, 2007 the close of the drafting comment period.

#### Synopsis:

The South Carolina Department of Insurance proposes to update and clarify Regulation 69-30, Solicitation of Life Insurance. Proposed amendments to Regulation 69-30, Solicitation of Life Insurance, will be based upon the current NAIC Life Insurance Disclosure Model Regulation.

The proposed regulation will require legislative review.

# **DEPARTMENT OF INSURANCE**

CHAPTER 69 Statutory Authority: S.C. Code Ann. Sections 38-3-110, 38-57-60, 38-63-10, 38-63-20, 38-65-10, 38-65-20, 38-69-10, 38-69-20

# Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-12.1, Replacement of Life Insurance and Annuities. Interested persons should submit their comments in writing to: Leslie M. Jones, Executive Assistant to the Director & Consulting Actuary, South Carolina Department of Insurance, 145 King Street, Suite 207, Charleston, South Carolina 29401. To be considered comments must be received no later than 5:00 p.m. on November 2, 2007 the close of the drafting comment period.

#### Synopsis:

The South Carolina Department of Insurance proposes to update and clarify Regulation 69-12.1, Replacement of Life Insurance and Annuities. Proposed amendments to Regulation 69-12.1, Replacement of Life Insurance and Annuities, will be based upon the current NAIC Life Insurance and Annuities Replacement Model Regulation.

The proposed regulation will require legislative review.

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

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

The South Carolina Department of Revenue is considering adding SC Regulation 117-337 to provide guidance as to the application of Code Section 12-36-2120(75) which exempts (effective November 1, 2007) from the state sales and use tax the gross proceeds of sales or sales price of "unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons." This exemption does not apply to local sales and use taxes that are administered and collected by the Department on behalf of the counties and other jurisdictions, unless the local tax law specifically exempts the sales of such unprepared food.

Under the proposed regulation, the determination as to whether a sale of unprepared food is exempt from the state sales and use tax is based on whether the food is of a type that is eligible to be purchased with USDA food stamps, the type of location selling the food, and whether the food is being sold for immediate consumption, business or institutional consumption, or home consumption.

In other words, a food must be of a type eligible to be purchased with USDA food stamps and must also be sold for home consumption (based on the type of food and the type of location selling the food) to qualify for the exemption from the state sales and use tax under Code Section 12-36-2120(75). For example, bottled soft drinks are eligible to be purchased with USDA food stamps, but if bottled soft drinks are sold at a concession stand at a festival, then the bottled soft drinks are sold for immediate consumption and not home consumption and the sale at the festival would be subject to the full state sales tax rate.

This regulation will explain which sales of food qualify or do not qualify for the exemption from the state sales and use tax under Code Section 12-36-2120(75).

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 October 29, 2007.

#### Synopsis:

The South Carolina Department of Revenue is considering adding SC Regulation 117-337 to provide guidance as to the application of Code Section 12-36-2120(75) which exempts (effective November 1, 2007) from the state sales and use tax the gross proceeds of sales or sales price of "unprepared food that lawfully may be purchased with United States Department of Agriculture food coupons." This exemption does not apply to local sales and use taxes that are administered and collected by the Department on behalf of the counties and other jurisdictions, unless the local tax law specifically exempts the sales of such unprepared food.

Under the proposed regulation, the determination as to whether a sale of unprepared food is exempt from the state sales and use tax is based on whether the food is of a type that is eligible to be purchased with USDA food stamps, the type of location selling the food, and whether the food is being sold for immediate consumption, business or institutional consumption, or home consumption.

This regulation will explain which sales of food qualify or do not qualify for the exemption from the state sales and use tax under Code Section 12-36-2120(75).

#### DEPARTMENT OF TRANSPORTATION CHAPTER 63

Statutory Authority: 1976 Code Section 57-5-1650; 57-3-110

# Notice of Drafting:

The South Carolina Department of Transportation proposes to promulgate a new regulation numbered 63-307 to provide for a system of contractor performance evaluation of all contractors doing construction work for the department and to require a minimum contractor performance score as a prerequisite for bidding on designated projects. The new regulations will create a process whereby each contractor will be evaluated on its performance on each contract. Scores from the project evaluations will be used to determine the contractor's eligibility to bid on contracts in the future.

The department is also proposing amendments to regulation 63-306 to change references to "Executive Director" to reflect the fact that Act 114 of 2007 eliminated that office and established a Secretary of Transportation as the department's chief executive officer. Other amendments are to improve the readability and clarity of the regulations without making a substantive change.

Interested persons may submit comments to Ms. Deborah Brooks Durden, SCDOT, Post Office Box 191, Columbia, South Carolina 29202-0191. To be considered, comments must be received no later than 5 p.m. on November 29, 2007, the close of the drafting comment period.

#### Synopsis:

The proposed regulation will provide for the following changes:

1. Change references to "Executive Director" in 63-306 to "Secretary of Transportation."

2. Provide for a performance evaluation of all prime contractors performing construction work for the department and the determination of a contract performance score.

3. Outline the procedures by which contractors will be notified of contractor performance scores and provide for an appeal procedure.

4. Provide that only contractors with a contractor performance score equal to or greater than the one assigned to a contract will be eligible to bid.

Legislative review of this proposal will be required.

# Document No.3153 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority: S.C. Code Section 48-1-10 *et seq*.

## R. 61-62. Air Pollution Control Regulations and Standards.

#### **Preamble:**

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 60 and 63 throughout each calendar year. Recent Federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. The Department proposes to amend Regulations 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards;* and 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*, to incorporate by reference recent Federal amendments promulgated during the period from January 1, 2006, through December 31, 2006.

The proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*, are necessary to maintain consistency with Federal rules and make typographical corrections and clarifications to R.61-62 as necessary. The proposed amendments will not require legislative review.

A Notice of Drafting for these proposed changes was published in the *State Register* on June 22, 2007. Since this amendment is consistent with Federal law, neither a preliminary fiscal impact statement nor a preliminary assessment report is required.

#### **Discussion of Proposed Revisions:**

SECTION CITATION:	EXPLANATION OF CHANGE:
R. 61-62.60	Tables in Subparts A, B, Cb, Da, Db, Dc, E, Eb, J, BB, GG, WWW, EEEE, and FFFF are amended.
R. 61-62.60	Subparts IIII, JJJJ and KKKK are added.
R. 61-62.60	Add "and as subsequently amended upon publication in the <i>Federal Register</i> " to introductory paragraphs of Subparts VVV, EEEE and FFFF.
R.61-62.63	Tables in subparts A, F, G, L, M, N, Q, R, U, Y, AA, BB, DD, GG, HH, II, KK, LL, MM, SS, YY, CCC, EEE, GGG, HHH, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, RRR, TTT, UUU, XXX, AAAA, CCCC, EEEE, FFFF, GGGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, UUUU, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, EEEEE, FFFFF, GGGGG, HHHHH, IIIII, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS and TTTTT are amended.

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R. 61-62.63	Add "and as subsequently amended upon publication in the <i>Federal Register</i> " to introductory paragraph of Subparts AAAA, CCCC, JJJJ, KKKK, NNNN, QQQQ, RRRR, ZZZZ, AAAAA, BBBBB, FFFFF, GGGGGG, IIIII, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS and TTTTT.
R. 61-62.63	Add "and as subsequently amended upon publication in the <i>Federal Register</i> as listed below" to introductory paragraph of Subparts EEEE and IIII.
R. 61-62.63	Correct typographical error in introductory paragraph of Subpart OOO.
R. 61-62.63	Add "as listed below" to introductory paragraph of Subpart MMMM.

# Notice of Staff Informational Forum:

Staff of the South Carolina Department of Health and Environmental Control invites interested members of the public to attend a staff-conducted informational forum to be held on October 29, 2007 at 10:00 a.m. in room 2380 at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive comments from interested persons on the proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards*.

Interested persons are also provided an opportunity to submit written comments to Anthony T. Lofton at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on October 29, 2007. Comments received at the forum or during the write-in public comment period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Anthony T. Lofton at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-7217.

# Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to comment on the proposed amendments to Regulation 61-62, *Air Pollution Control Regulations and Standards* at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on December 13, 2007. The public hearing is to be held in room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

# Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

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

*Purpose of Regulation:* These amendments and corrections will maintain conformity with Federal requirements and ensure compliance with Federal standards.

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

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

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

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 60 and 63 throughout each calendar year. Recent Federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. The Department proposes to amend Regulations 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards*, and 61-62.63, *National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories*, to incorporate by reference recent Federal amendments promulgated during the period from January 1, 2006, through December 31, 2006.

DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions as a result of these amendments. The standards to be adopted are already effective and applicable to the regulated community as a matter of Federal law. The proposed amendments will benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

While there is no specific detrimental effect on the environment and public health, the State's authority to implement Federal requirements, which are believed to be beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

# Text:

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

## Document No.3151 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: S.C. Code Ann. Sections 44-44-10 through -160

# R.61- . South Carolina Birth Defects Program

#### Preamble:

The Department proposes to create regulations to implement provisions of the South Carolina Birth Defects Act (2004 S.C. Act No. 281) codified at S.C. Code Ann. Sections 44-44-10 through -160, regarding the public health surveillance of birth defects identified in children up to two years of age in South Carolina. This legislative mandate authorizes the Department to promulgate regulations for public health surveillance of birth defects and to ensure compliance with the public health monitoring of every child born in South Carolina. Specific areas which the Department seeks to address in the regulations include: Definitions of key terms; establishment of the SCBDP; purpose of the program and type of case ascertainment utilized; utilization of data; methods of referral and intervention; establishment and composition of the Birth Defects Advisory Council; maintenance of central database; access to health and medical records; confidentiality; public reports of de-identified, aggregate data; use and disclosure of birth defects data; and agreements with other agencies.

A Notice of Drafting for this proposed regulation was published in the State Register on May 25, 2007.

#### Section-by-Section Discussion of Proposed New Regulation:

Section A discusses the purpose and scope of the proposed regulation.

Section B provides definitions related to implementation of the regulation.

Section C discusses statewide surveillance of all major structural birth defects.

Section D addresses utilization and release of program data.

Section E addresses use of birth defects data for linkage of affected children and families with treatment and services.

Section F addresses confidentiality requirements. Records will be kept confidential and used and released pursuant to the provisions of S.C. Code Ann. Section 44-44-140 only.

Section G addresses severability, whereas if any part of the regulation is found to be invalid, the remaining unaffected portions will remain in effect

# Notice of Staff Informational Forum and Public Comment Period Pursuant to S.C. Code Ann. Section 1-23-110:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on Monday, October 29, at 3:30 p.m. in Room N-355, third floor of the Michael Jarrett Building at the Department of Health and Environmental Control at 1751 Calhoun Street, Columbia, S.C. 29201. The purpose of the forum is to answer questions, clarify any issues, and receive public comments from interested persons on the proposed new regulation.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Lyn Phillips at the S.C. Birth Defects Program, Division of Perinatal Systems, DHEC, 1751 Calhoun Street, Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on October 29, the close of the public comment period. Comments received at the Forum and during the public comment period will be considered in formulating the final proposed regulation for public hearing before the Board as noticed below.

Comments received at the forum and/or during the public comment period above-noticed shall be submitted to the Board of Health and Environmental Control in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

Hard copies of the proposed regulation for public notice and comment may be obtained by contacting Lyn Phillips at the S.C. Birth Defects Program, Division of Perinatal Systems, DHEC, 1751 Calhoun Street, Columbia, S.C. 29201, or by calling (803) 898-1287. Interested persons may also obtain an electronic copy of Proposed Regulation Department's the Notice of from the Internet site at http://www.scdhec.gov/administration/regs/. At this site, go to the SCDHEC Regulation Development Update and browse under the "Maternal and Child Health" category for this proposed regulation.

# Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 13, 2007. The public hearing will be held in the Board Room of the Commissioner's Suite, Third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented.

The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

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

The South Carolina Birth Defects Program is state-funded. The funds to implement this program have been appropriated by the S.C. General Assembly.

#### Statement of Need and Reasonableness:

This statement was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

#### **DESCRIPTION OF REGULATION:**

<u>Purpose</u>: This regulation will implement the provisions of the S.C. Birth Defects Act (Act 281, 2004) codified at S.C. Code Ann. Sections 44-44-10 through-160 regarding the public health surveillance of birth defects identified in children up to two years of age in South Carolina. This regulation will ensure compliance with the public health monitoring of every child born in South Carolina.

Legal authority: The S.C. Birth Defects Act (2004 S.C. Act No. 281) codified at S.C. Code Ann. Sections 44-44-10 through 44-44-160.

<u>Plan for Implementation</u>: The proposed regulations will take effect upon approval by the S.C. Board of Health and Environmental Control, the General Assembly and publication in the State Register. The proposed regulation will be implemented by providing the regulated community with copies of the regulation.

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

The proposed regulation is needed and reasonable because it will satisfy a legislative mandate to implement the provisions of the S.C. Birth Defects Act. This regulation will allow South Carolina to establish and maintain a comprehensive program to monitor the occurrence of all major structural birth defects in the state for the purpose of determining rates and trends of birth defects; assessing the efficiency and effectiveness of referral of affected children and families; developing public health strategies for the prevention of birth defects and conducting research on the causes, distribution and prevention of birth defects. This program offers benefits of improved child services, occurrence and recurrence prevention, epidemic or cluster analysis, education, research, optimal resource allocation, and net savings which will likely far exceed the cost to the State.

# DETERMINATION OF COSTS AND BENEFITS:

This is a state funded program. See Preliminary Fiscal Impact Statement above.

Costs are expected to be minimal, if any, to the regulated community. Department staff will utilize its own assets to retrieve the needed data and resources from hospitals and other medical facilities.

# UNCERTAINTIES OF ESTIMATES: None

# EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation will promote public health by improving knowledge and information regarding the occurrence of birth defects, including rates and trends, in South Carolina. This will enable research on the causes, distribution and prevention of birth defects and development of public health strategies for prevention. Additionally, referral of children and families for appropriate services and care will be enhanced.

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

If the regulation is not implemented, the Department and the State of South Carolina would lose the opportunity to gain critically needed information about birth defects in South Carolina and to improve the health and quality of life of its citizens. Potential opportunities to understand and reduce the economic burden of disability to the state would also be lost.

# Statement of Rationale:

The Department is promulgating this regulation to implement the provisions of the S.C. Birth Defects Act (2004 S.C. Act No. 281)

# Text:

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

## Document No.3149 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

#### Statutory Authority:

Atomic Energy and Radiation Control Act, S.C. Code Ann. Sections 13-7-10 *et seq.*; Uniform Electronic Transactions Act, S.C. Code Ann. Sections 26-6-10 *et seq.*; DHEC Enabling Act, S.C. Code Ann. Sections 44-1-10 *et seq.*; State Underground Petroleum Environmental Response Bank Act, S.C. Code Ann. Sections 44-2-10 *et seq.*; State Underground Petroleum Environmental Response Bank Act, S.C. Code Ann. Sections 44-2-10 *et seq.*; State Drinking Water Act, S.C. Code Ann. Sections 44-55-10 *et seq.*; State Recreational Waters Act, S.C. Code Ann. Sections 44-55-50 *et seq.*; Hazardous Waste Management Act, S.C. Code Ann. Sections 44-56-10 *et seq.*; Infectious Waste Management Act, S.C. Code Ann. Sections 44-93-10 *et seq.*; Solid Waste Policy and Management Act, S.C. Code Ann. Sections 44-96-10 *et seq.*; Pollution Control Act, S.C. Code Ann. Sections 48-3-10 *et seq.*; Pollution Control Facilities, S.C. Code Ann. Sections 48-3-10 *et seq.*; Water Quality Revolving Fund Authority Act, S.C. Code Ann. Sections 48-14-10 *et seq.*; Erosion and Sediment Reduction Act, S.C. Code Ann. Sections 48-14-10 *et seq.*; Storemwater Management and Sediment Reduction Act, S.C. Code Ann. Sections 48-14-10 *et seq.*; Erosion and Sediment Reduction Act, S.C. Code Ann. Sections 48-39-10 *et seq.*; Toroit Act, S.C. Code Ann. Sections 48-18-10 *et seq.*; Storemwater Management and Sediment Reduction Act, S.C. Code Ann. Sections 48-14-10 *et seq.*; Erosion and Sediment Reduction Act, S.C. Code Ann. Sections 48-39-10 *et seq.*; Oil and Gas Exploration, Drilling, Transportation and Production Act, S.C. Code Ann. Sections 48-43-10 *et seq.*;

R.61- . Environmental Electronic Reporting Requirements

#### **Preamble:**

The South Carolina Department of Health and Environmental Control (Department) is proposing a new regulation entitled, *Environmental Electronic Reporting Requirements*, to comply with the United States Environmental Protection Agency's (EPA) Cross-Media Electronic Reporting Rule (CROMERR) as published in the October 13, 2005, issue of the *Federal Register* (70 FR 59848 – 59889). Additionally, the proposed regulation will provide consistent standards to include designated state-only programs in the Department's electronic document receiving systems in accordance with the Uniform Electronic Transactions Act (UETA) of 2004, S.C. Code Ann. Sections 26-6-10 *et seq.* 

This regulation will impact the Department's federally-authorized programs by setting out specific requirements mandated by the EPA in order for the Department to continue accepting reports and applications electronically. CROMERR established performance standards against which Department electronic document receiving systems will be evaluated before EPA will approve changes to any of the Department's delegated, authorized, or approved programs to allow electronic reporting by the regulated community. In addition, this regulation will impact state programs by allowing the regulated community to file applications and reports for state programs electronically. The standards set forth in this regulation are necessary to ensure the legal enforceability of the documents. Electronic reporting under this rule is voluntary for regulated entities of state programs and federally-authorized programs. This regulation will provide a consistent framework by which the Department will accept, manage, and enforce electronic record submissions from the regulated community.

A Notice of Drafting for this proposed new regulation was published in the *State Register* on October 27, 2006, and again on May 25, 2007. No public comments were received as a result of these drafting notices.

#### Section-By-Section Discussion of Proposed New Regulation

SECTION CITATION AND SUMMARY OF SECTION:

Section I This section was created to describe the purpose of the proposed new regulation.

Section II

This section was created to define terms used within the proposed new regulation.

Section III

This section was created to describe when and to which entities the proposed new regulation applies and under what circumstances it does not apply.

#### Section IV

This section was created to describe the requirements for using the Department's electronic receiving system(s).

Section V

This section was created to describe the responsibilities of the authorized electronic signatory.

Section VI

This section was created to describe the legal parameters of the proposed new regulation.

Section VII

This section is included to disclose the severability rights of this regulation.

# Notice of Staff Informational Forum and Public Comment Period:

Staff of the South Carolina Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 30, 2007, at 1:30 p.m. in Room 2380 at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive public comments from interested persons on this proposed new *Regulation 61-\_\_\_\_\_*, *Environmental Electronic Reporting Requirements*.

Interested persons may also submit written comments on the proposed regulation to Henry Phillips at the South Carolina Department of Health and Environmental Control, EQC Administration, 2600 Bull Street, Columbia, SC 29201. Comments must be received no later than 5:00 p.m. on October 30, 2007.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Henry Phillips of the South Carolina Department of Health and Environmental Control, EQC Administration, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 896-8966. An electronic copy of the Notice of Proposed Regulation mav also be obtained from the Department's Internet site at Go to the SCDHEC Regulation Development Update and http://www.scdhec.net/administration/regs/. browse under Environmental Quality Control Administration for this proposed new Regulation 61-, Environmental Electronic Reporting Requirements.

Comments received at the forum and/or during the public comment period above-noticed shall be considered in formulating the final proposed regulation. Comments received shall be submitted to the Board of Health and Environmental Control in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

# Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to comment on the proposed new *Regulation 61-\_\_\_\_, Environmental Electronic Reporting Requirements*, at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 13, 2007. The public hearing is to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m. at which

time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department at least 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and, as a courtesy, to provide written copies of their presentation for the record.

# **Preliminary Fiscal Impact Statement:**

There will be no increased costs to the State or its political subdivisions.

# Statement of Need and Reasonableness:

This statement of need, reasonableness and rationale was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Proposed New Regulation entitled R.61-\_\_\_, *Environmental Electronic Reporting Requirements* 

<u>Purpose</u>: The proposed new regulation, entitled Environmental Electronic Reporting Requirements, will comply with the United States Environmental Protection Agency's (EPA) Cross-Media Electronic Reporting Rule (CROMERR) as published in the October 13, 2005, issue of the Federal Register (70 FR 59848 – 59889). Additionally, the proposed regulation will provide consistent standards to include designated state-only programs in the Department's electronic document receiving systems in accordance with the Uniform Electronic Transactions

Act (UETA) of 2004, S.C. Code Ann. Sections 26-6-10 et seq. See Preamble above and Statement of Need and Reasonableness and Rationale herein for additional information.

Legal Authority: Atomic Energy and Radiation Control Act, S.C. Code Ann. Sections 13-7-10 *et seq.*; Uniform Electronic Transactions Act, S.C. Code Ann. Sections 26-6-10 *et seq.*; DHEC Enabling Act, S.C. Code Ann. Sections 44-1-10 *et seq.*; State Underground Petroleum Environmental Response Bank Act, S.C. Code Ann. Sections 44-2-10 *et seq.*; Safe Drinking Water Act, S.C. Code Ann. Sections 44-55-10 *et seq.*; State Recreational Waters Act, S.C. Code Ann. Sections 44-55-10 *et seq.*; State Recreational Waters Act, S.C. Code Ann. Sections 44-55-0 *et seq.*; Hazardous Waste Management Act, S.C. Code Ann. Sections 44-56-10 *et seq.*; Infectious Waste Management Act, S.C. Code Ann. Sections 44-96-10 *et seq.*; Pollution Control Act, S.C. Code Ann. Sections 48-10 *et seq.*; Environmental Protection Fund Act, S.C. Code Ann. Sections 48-2-10 *et seq.*; Pollution Control Facilities, S.C. Code Ann. Sections 48-3-10 *et seq.*; Water Quality Revolving Fund Authority Act, S.C. Code Ann. Sections 48-10 *et seq.*; Erosion and Sediment Reduction Act, S.C. Code Ann. Sections 48-10 *et seq.*; S.C. Code Ann. Sections 48-10 *et seq.*; Torsion and Sediment Reduction Act, S.C. Code Ann. Sections 48-10 *et seq.*; Storemwater Management and Sediment Reduction Act, S.C. Code Ann. Sections 48-10 *et seq.*; Storemwater Management Act, S.C. Code Ann. Sections 48-10 *et seq.*; Storemwater Management Act, S.C. Code Ann. Sections 48-3-10 *et seq.*; Torsion and Sediment Reduction Act, S.C. Code Ann. Sections 48-3-10 *et seq.*; Coastal Zone Management Act, S.C. Code Ann. Sections 48-39-10 *et seq.*; Oil and Gas Exploration, Drilling, Transportation and Production Act, S.C. Code Ann. Sections 48-3-10 *et seq.*; Oil and Gas Exploration, Drilling, Transportation and Production Act, S.C. Code Ann. Sections 48-3-10 *et seq.*; Oil and Gas Exploration, Drilling, Transportation and Production Act, S.C. Code Ann. Sections 48-3-10 *et seq.*; Oil and Gas Exploration, Drilling, Transportation and Production Act, S.C. Code Ann. Sections 48-43-10 *et seq* 

<u>Plan for Implementation</u>: The proposed regulation will take effect as law upon approval by the South Carolina Board of Health and Environmental Control, the South Carolina General Assembly, and publication as a final regulation in the *South Carolina State Register*. The regulation will be implemented, as are other regulations. Paper and electronic copies of the final regulation will be available by publication in the *South Carolina State Register*. Paper copies will also be available at cost from the Department's Freedom of Information Office. Additionally, electronic copies of the regulation will be made available on the Department's website and via email transmission.

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

This regulation is necessary in order for the Department to continue to allow regulated entities to utilize electronic reporting in accordance with EPA's requirements as set forth in CROMERR for federally-

authorized programs. Additionally, applying one set of standards through this regulation to federal programs and designated state-only programs will assist the Department in its efforts to develop an electronic document receiving system. It will also provide the Department the flexibility to enhance current electronic reporting requirements and encourage the regulated community to increase its use of electronic applications and reporting.

DETERMINATION OF COSTS AND BENEFITS:

<u>Internal Costs</u>: There will be no increased cost to the State or its political subdivisions. The proposed new regulation will benefit the Department by conserving resources associated with the review of regulated information. The benefits of electronic reporting will result in cost savings to the State by reducing the need for postage, paper, and document storage costs. Electronic reporting will increase the timeliness and availability of information while also reducing the possibility of information being transposed.

<u>External Costs</u>: There will be no increased cost to the regulated community. The benefits of electronic reporting will result in cost savings to the regulated community by reducing their reporting burden due to cost reductions in paper and postage.

UNCERTAINTIES OF ESTIMATES: None

#### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no negative effect on the environment. The proposed new regulation will support the Department's goal of promoting and protecting the health of the public and the environment by utilizing more efficient and effective methods of communicating both within the Department and with the regulated community. This regulation supports the reduction of paper and mailing cost and will result in a quicker review time for regulated information.

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

There would be no detrimental effect on the environment and public health if the proposed new regulation were not adopted; however, under CROMERR, the EPA requires states to adhere to CROMERR to submit documents electronically if EPA has delegated, authorized, or approved a state to administer the applicable program. Additionally, by including designated state-only programs in this proposed new regulation, the Department can apply the same standards to the regulated community for those programs, ensuring consistency and avoiding confusion.

#### **Statement of Rationale:**

This proposed new regulation will provide a less costly and a more efficient and effective means for the regulated community and the Department to conduct business. No new scientific studies or information precipitated the development of the proposed regulation. This regulation was developed to be consistent with the federal CROMERR regulation and the South Carolina Uniform Electronic Transactions Act.

#### Text:

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

#### Document No.3150 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority: S.C. Code Ann. Sections 44-56-30 (2006)

#### R. 61-79 Hazardous Waste Management Regulations

#### **Preamble:**

The Department proposes to amend Regulation 61-79 to adopt amendments promulgated by the US Environmental Protection Agency (US EPA) between October 4, 2005 and April 4, 2006. Adoption of federal amendments to 40 CFR 124, 260, 261, 264, 265, 266, 268, and 270, to R.61-79 will conform with the federal equivalent. This amendment will also revise the appeal provisions pursuant to 2006 .S.C. Act No. 387 that amended the S.C. Administrative Procedures Act.

The federal regulations proposed for adoption are the Headworks Exemption, Hazardous Waste Combustors, Phase I and II Final Replacement Standards, and the Burden Reduction Rule. These rules were published by the US EPA at 70 FR 57769 on October 4, 2005; 70 FR 59402 on October 12, 2005 and 71 FR 16862 on April 4, 2006.

These amendments will be less stringent than the previous federal equivalent and will relax the current state regulations. Adoption by states is optional. Although the relaxation in the regulations are federal initiatives, legislative review and a fiscal impact statement are required. Legislative review is required because, while the changes will not make South Carolina less stringent than federal initiatives, the changes will be less stringent than current South Carolina regulations.

A Notice of Drafting for the proposed amendments was published in the State Register on April 26, 2007. Notice was also published on the Department's Regulatory Information Internet site in its monthly Regulation Development Update, as well as on the DHEC Land and Waste Management Internet site. No comments were received. See section-by-section Discussion below.

#### **Discussion of Proposed Revisions:**

Revisions are made to conform R.61-79 to reflect relaxed federal amendments to 40 <u>CFR</u> 260 through 273 as of April 4, 2006.

In addition to this section-by-section discussion of the proposed regulations, see also Statement of Need and Reasonableness herein.

#### Section Citation and Explanation of change

#### 2006 S.C. Act No. 387

124.19(a)-(c)

Remove all the text of 124.19(a)-(c). Replace this section with new Appeal of Permit language to correlate with changes in the administrative appeals process pursuant to S.C. Act 387 (2006).

#### <u>Federal Register</u>

70 FR 57769, Oct 4, 2005

Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures "Headworks Exemptions" Rule

## 261.3 (a)(2)(iv)(A),(B), (D),(F)&(G)

Revise definition of hazardous waste in (a)(2)(iv)(A), (B), (D), (F) & (G) to list spent solvents that will be allowed into the headworks of a facility's wastewater treatment or pretreatment system as long as the solvent does not exceed specified limits. This section also lists other specific requirements for this exemption

# <u>Federal Register</u> 70 FR 59402, October 12, 2005 Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I &II)

### 264.340(b)(1)

Revise the first sentence of paragraph (b)(1) to define what parts do not apply to new incinerators under RCRA, when an incinerator complies with maximum achievable control technology (MACT) requirements, and how to show compliance to MACT standards

#### 264.340 (b)(5)

Add paragraph (b)(5) to define another exception to the standards that apply to hazardous waste incineration units

#### 265.340 (b)(1)

Revise paragraph (b)(1) to define how an owner or operator can demonstrate compliance with MACT interim status standards

#### 266.100 (b)(1)

Revise the first sentence of paragraph (b)(1) to define exemptions to standards as they apply to a new hazardous waste boiler or industrial furnace and how to demonstrate compliance with MACT standards.

#### 266.100(b)(3)& (b)(3)(i)-(iii) & (4)

Add paragraphs (b)(3) and (b)(3)(i)-(iii) to define standards to which boiler or hydrochloric acid production furnaces remain subject. Paragraph (4) defines the limitation that for boilers that elect to comply with the alternative to matter standard in 63.12.16(e) and .1217(e), the particulate matter standard of 266.105 remains in effect.

#### 270.6(a)&(b)(1)&(2)

Revise paragraph (a) and (b) incorporation by reference updates. Add paragraph (b)(1) with APTI Course citation. Paragraph (b)(2) is reserved.

#### 270.10(1)(1)(i)-(ix)&(2)

Replace paragraph (l) with new paragraph defining factors to protect human health and the environment if factors listed within paragraph (l) and its subparagraphs indicate that compliance with 40 CFR part 63 subpart EEE alone may not be protective of human health or the environment. Add paragraph (l)(1) and paragraphs (i) - (ix) defining specific factors that would require additional controls under RCRA. Paragraph (l)(2) is reserved.

#### 270.19(e)

Revise paragraph (e) with Specific part B information requirements for incinerators to establish what is necessary to ensure compliance subject to a RCRA permit in addition to requirements under 40 CFR Part 63, subpart EEE.

#### 270.22

Revise introductory text to define additional furnaces which become subject to RCRA permit requirements after October 12, 2005.

270.24(d)(3)

Revise paragraph (d)(3) which is Specific part B information requirements for process vents by deleting 260.11 and replacing with 270.6.

# 270.25(e)(3)

Revise paragraph (e)(3) which is Specific part B information requirements for equipment by changing reference specified by deleting 260.11 and replacing with 270.6.

# 270.32(b)(3)

Add paragraph (b)(3) to establish specific permit conditions under RCRA

# 270.42(j)(1)-(3)

Permit modifications at the request of permittee. Revise paragraph (j)(1) specifics for requesting a permit modification; renumber paragraph (j)(2) as (j)(3); add new paragraph (j)(2) defining when to file Notification of Intent to Comply for a permit modification for the purpose of technology changes

# 270.42(k),(k)(1)(i)-(iv)

Add new paragraph (k) introductory text, (k)(1) and (k)(1)(i)-(iv) listing specific conditions to request a waiver of RCRA permit conditions in lieu of part 63 MACT standards.

# 270.42(k)(2)(i)-(ii)

Add new paragraph (k)(2) and (i)-(ii) to specify modifications in conjunction with MACT performance testing to request modifications under RCRA

# Appendix I to 270.42

Add "L. paragraph 10" to Appendix I of Section 270.42 - Classification of Permit Modification to define changes to RCRA permit provisions needed to support transition to 40 CFR part 63 (Subpart EEE).

# 270.62

Revise introductory text to clarify hazardous waste incineration unit permit requirements under RCRA

270.66

Amend introductory text to provide specific incinerator requirements under RCRA

# 270.235

Amend introductory text to add to the list of incinerators, kilns and boilers affected under this section

# 270.235(a)(1)

Revise introductory text to 235(a)(1) to add types of boilers and furnaces included in revisions to permit conditions under RCRA after complying with MACT.

# 270.235(a)(2)

Revise introductory text to 235(a)(2) to add types of boilers and furnaces included in revisions to reissued permits under RCRA after complying with MACT.

# 270.235(b)(1)

Revise introductory text to 235(b)(1) to add types of boilers and furnaces included in revisions to interim status permits under RCRA after complying with MACT.

# 270.235(b)(2)

Revise introductory text to 235(b)(2) to add types of boilers and furnaces included in revisions to operations under a subsequent RCRA permit after complying with MACT.

# 270.235(c)

Add new paragraph (c) describing the type incinerators that are new units subject to RCRA.

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# 270.235(c)(1)&(2)

Add new sections (1) & (2) to list options available to new units (1) to comply with 40 CFR 63.1206(c)(2); or (2) request conditions to be listed in a RCRA permit.

# <u>Federal Register and Rule Name</u> 71 FR 16862, April 4, 2006 Resource Conservation and Recovery Act Burden Reduction Initiative

260.10 Definitions

In alphabetic order add the definition for "Performance Track and/or South Carolina Environmental Excellence member facility"

260.31(b)(2)-(8)

Remove paragraph (b)(2) and renumber paragraphs (b)(3) through (b)(8) as (b)(2) through (b)(7)

# 261.4(a)(9)(iii)(E)

Revise paragraph (a)(9)(iii)(E) to define how to claim an exclusion under the Burden Reduction Rule and defines record keeping requirements

261.4(f)(9) Revise introductory text defining reporting requirements

# 264.15(b)(4)

Revise paragraph (b)(4) to include reduced requirements for Performance Track and/or South Carolina Environmental Excellence member facilities

# 264.15(b)(5)&(5)(i)-(iii)

Add paragraph (b)(5) defining requirements for reduced inspection frequency for Performance Track and/or South Carolina Environmental Excellence member facilities; add sections (i)-(iii) noting specific requirements and consequences of discontinuing membership as Performance Track and/or South Carolina Environmental Excellence member facilities

# 264.16(a)(4)

Add new paragraph (a)(4) eliminating emergency response training under RCRA when facility employees emergency response training has been received pursuant to Occupational Safety and Health Administration (OSHA) regulations

# 264.52(b)

Revise (b) to simplify requirements for one contingency plan which meets all regulatory requirements based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan")

264.56(i)&(j)

Remove paragraph (i) and redesignate paragraph (j) as paragraph (i)

# 264.73(b)&(b)(1)&(2)

Revise paragraph (b) introductory text establishing time a facility operating record must be maintained; Revise paragraph (b)(1) and (2) to explain the exceptions to paragraph (b) in retention times required and what triggers the exceptions

# 264.73 (b)(6),(8)&(10)

Revise paragraphs (b)(6), (8) and (10) to define reduced requirements for operating records for monitoring, testing or analytical data and corrective action, record keeping times and exceptions to the requirements.

# 264.98 (d), (g)(2),&(g)(3)

Paragraph (d) is amended providing greater flexibility in frequencies for collection of samples; Paragraph (g)(2) is amended to provide the Department with options for specific constituent sampling. Paragraph (g)(3) adds flexibility to the owner or operator ability to request an alternate sampling with Departmental approval.

264.100(g)

Paragraph 100(g) Reporting of the effectiveness of the corrective action program is changed from semi annually to annually.

264.113(e)(5)

.113(e)(5) "Closure, time allowed for closure" progress of the corrective action program reporting is changed from semiannually to annually.

# 264.115

Paragraph .115 "Certification of Closure", language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

# 264.120

Paragraph .120 "Certification of completion of postclosure care" language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

# 264.143(i)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

# 264.145(i)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

# 264.147(e)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

264.174

The requirement for weekly inspections of containers is reduced to monthly for Performance Track and/or South Carolina Environmental Excellence member facilities and must follow procedures identified in 264.15(b)(5)

# 264.191(a) & (b)(5)(ii)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer" in both paragraphs

# 264.192(a)&(b)

Change the introductory text in both paragraphs, .192(a) & (b) from "an independent registered professional engineer" to "a qualified professional engineer"

#### 264.193(a)(1)

After the words "all new" the words "and existing" are added before the words "tank systems"

264.193(a)(2)- (5)

Remove paragraphs (a)(2)-(a)(4); renumber (a)(5) as (a)(2). Revise the newly designated (a)(2) by deleted references to the old (a)(2) - (a)(4) and establishing new schedule for inspection of tank containment and detection of releases.

# 264.193(i)(2)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

# 264.195(b)& (1)-(3)

Delete (1)-(3). Incorporate language from (2) into introductory information of (b)

# 264.195(c)-(h)

Redesignate paragraphs (c) & (d) as paragraphs (g) & (h). Add new paragraphs (c) (1) & (2) and (d) through (f) setting forth specifics of details required in the inspection process and inspections schedules and in (e) providing relaxed schedule for Performance Track and/or South Carolina Environmental Excellence member facilities

# 264.196(f)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer" and establishing retention schedule for Certification of major repairs report.

#### 264.251(c)

Revise the introductory text to (c) by removing the phrases relating to construction

# 264.280(b)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

# 264.314(a)-(f)

Remove paragraph (a); renumber paragraphs (b) - (f) as (a)-(e); modify new paragraph (a) with landfill prohibitions of hazardous waste free liquids in landfills; revise paragraph (e) by removing old effective date.

# 264.343(a)(2)

Paragraph (a)(2) removes the language requiring notification to Department of intent to burn F020, F021, F022, F023 F026 or F027 hazardous wastes.

# 264.347(d)

Paragraph (d) is edited with retention schedule for monitory and inspection data added to the operating record. 264.554(c)(2)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

# 264.571(a),(b)&(c)

Language is changed in all three paragraphs from "an independent registered professional engineer" to "a qualified professional engineer"

# 264.573(a)(4)(ii)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

#### 264.573(g)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

# 264.574(a)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer"

#### 264.1061(b)(1)-(3) &(d)

Removing paragraphs (b)(1) and (d); and, renumber paragraphs (b)(2) and (b)(3) as paragraphs (b)(1) and (b)(2) eliminating notifications facilities must give Department

#### 264.1062(a)(1)&(2)

Remove paragraph (a)(2) and renumber paragraph (a)(1) as paragraph (a) eliminating notifications facilities must give Department.

264.1100

Modify paragraph eliminating old effective date.

#### 264.1101(c)(2)&(4)

(c)(2) adds language instruction that certification must be kept on site and language is changed from "an independent registered professional engineer" to "a qualified professional engineer"; (c)(4) describes how the Performance Track and/or South Carolina Environmental Excellence member facility apply for reduced inspection frequency.

#### 265.15(b)(4)&(5)(i)-(iii)

Provides for reduced inspection frequency for the Performance Track and/or South Carolina Environmental Excellence member facility

#### 265.16(a)(4)

Eliminates emergency response training pursuant to RCRA when employees have received emergency response training under OSHA

#### 265.52(b)

Add language that describes how owner or operator can develop one contingency spill plan which meets all regulatory requirements.

265.56(i)&(j)

Remove paragraph (i) and renumber paragraph (j) as paragraph (i) eliminating notification to the Department before operation can be resumed in the event of a spill

#### 265.73(b), (b)(1)-(2), (b)(6)-(8) and (b)(15)

Language added that describes what information must be kept in the operating record and for how long. Paragraph (15) is added further describing what data must be maintained in the operating record until the closure of the facility.

#### 265.90(d)(1)&(3)

Both paragraphs (d)(1)&(3) eliminates the requirements to submit specific plans to the Department and changes the language to allow the plans to be maintained in the operating record of the facility until closure of the facility.

#### 265.93(d)(2)&(5)

Both paragraphs (d)(2)&(5) eliminates the requirements to submit specific plans to the Department and changes the language to allow the plans to be maintained in the operating record of the facility until closure of the facility.

#### 265.113(e)(5)

Owner/operator corrective action report schedules changed from semiannual to annual to the Department.

# 265.115

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

# 265.120

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

# 265.143(h)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

#### 265.145

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

# 265.147(e)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

#### 265.174

Reduced inspection frequency where containers are stored from weekly to monthly for Performance Track and/or South Carolina Environmental Excellence member facilities

#### 265.191(a)&(b)(5)(ii)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

#### 265.192(a)&(b) intro

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

# 265.193(a)(2)-(4)

Remove paragraphs (a)(2)-(4); renumber (a)(5) as (a)(2) Revise paragraph (a)(1) with the additions language "and existing" before tank systems; revise newly designated (a)(2) by removing old references and adding specific time frames

# 265.193(i)(2)

Revise paragraph (i)(2) defining the type of tanks requiring inspection, who must conduct the leak test and language is changed from "an independent registered professional engineer" to "a professional engineer"

#### 265.195(a)

Revise paragraph (a) to add specifics of what data needs to be collected in the tank system inspections

#### 265.195(b)-(e)

Renumber (b) and (c) as paragraphs (f) and (g); add new paragraphs (b) & (b) (1)-(3) defining specifics about tank inspections and frequencies;(c) discusses schedules for leak inspection; (d) provides a reduced inspection schedule for the Performance Track and/or South Carolina Environmental Excellence member facilities; and schedules for ancillary equipment inspections.

# 265.196(f)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer" as well as the change from submitting the inspections certification to the Department to placing it in the operating record maintained at the facility until closure.

# 265.201(c)-(h)

Revise paragraph (c) with exceptions to inspection schedule for facilities with 100-1,000 kg/month of hazardous waste stored in tanks; renumber (d)-(f) as paragraphs (f)-(h); add new paragraph (d) and (e). Paragraph (d) discusses specifics of leak detection between 100 and 1,000 kg/month of hazardous waste in tanks schedules and documentation, (e) adds a reduced inspection schedule for Performance Track and/or South Carolina Environmental Excellence member facilities

265.221(a)

Paragraph (a) is revised removing old dates and detailing requirements for liners

# 265.223

Renumber .223 as .224 "Response actions" and revise (a) of the renumbered paragraph defining requirements of surface impoundment units response action plans.

# 265.259(a)

Revise paragraph (a) with specifics of developing a response action plan and requiring the facility to keep the report on-site rather than having to submit it to the Department.

# 265.280(e)

Language is changed from "an independent registered professional engineer" to "a qualified professional engineer

# 265.301(a)

Revise paragraph (a) deleting old dates

# 265.303(a)

Revise paragraph (a) requiring the facility to develop a response action plan and keep the report on-site rather than having to submit it to the Department

# 265.314(a)-(g)

Remove paragraph (a): renumber paragraphs (b)-(g) as (a)-(f); Revise the new paragraph (a) which defines special requirements for bulk and containerized liquids. Revise paragraph (f) to prohibit the placement of any liquid which is not a hazardous waste in a landfill.

# 265.441(a)-(c)

Each paragraph (a)-(c) is revised by adding language that is changed from "an independent registered professional engineer" to "a qualified professional engineer

# 265.443(a)(4)(ii)&(g)

Paragraphs (a)(4)(ii) and (g) language is changed from "an independent registered professional engineer" to "a qualified professional engineer

# 265.444(a)

Revise paragraph (a) by adding language that is changed from "an independent registered professional engineer" to "a qualified professional engineer

265.1061(b)(1)&(d) Remove paragraphs .1061(b)(1) and (d)

# 265.1061(b)(2) & (3)

Renumber paragraphs (b)(2) & (3) as paragraphs (b)(1) & (2)

#### 265.1062(a)(1)&(2)

Remove paragraph (a)(2) and renumber paragraph (a)(1) as paragraph (a)

#### 265.1100

Revise the introductory text to .1100 by removing old effective dates.

#### 265.1101(c)(2)&(4)

Revise paragraph (2) by providing that certification is to be kept on-site, language is changed from "an independent registered professional engineer" to "a qualified professional engineer and removing old dates.; revise paragraph (4) by reducing requirements for Performance Track and/or South Carolina Environmental Excellence member facilities,

#### 266.102(e)(10)

Revise paragraph (e)(10) changing the requirement for the operating record to be kept at the facility for five years rather than having to keep it until closure of the facility.

#### 266.103(d)&(k)

Revise paragraph 103(d) changing the requirement for submission of recertification of compliance from three years to five years and paragraph (k) revises the recordkeeping requirements from closure of the boiler or industrial furnace to just five years.

#### 268.7(a)(1)-(2) and (b)(6)

Revise paragraphs (a)(1) to define generator requirements for determining if a waste has to be treated before it can be land disposed and how this is done. Paragraph (2) provides directions to the generator if they chose not to make the determination of whether the waste must be treated which then must be determined by the treatment facility.

#### 268.9(a)&(d)

Paragraph (a) is modified by adding the clarification to determination of the EAP Hazardous Waste Number that must be determined by the initial generator of solid waste; revise (d) to no longer require generators to send notification and certification when the waste is no longer hazardous to the Department but the certification has to be kept in on-site files.

#### 270.14(a)

In paragraph (a) language is changed from "an independent registered professional engineer" to "a qualified professional engineer

#### 270.16(a)

In paragraph (a) language is changed from "an independent registered professional engineer" to "a qualified professional engineer

#### 270.26(c)(15)

In paragraph (c)(15) language is changed from "an independent registered professional engineer" to "a qualified professional engineer

#### 270.42(l) &(1)&(2)

Each section in .42(l), (l)(1) and (l)(2) describe specific modifications to the regulations provided to the Performance Track and/or the South Carolina Environmental Excellence member facilities

# 270.42 Appendix I

Add new entry O to the table in Appendix I "Classification of Permit Modification" providing reduced inspection frequency for Performance Track and/or the South Carolina Environmental Excellence Program member facilities

# Notice of Staff Informational Forum and Public Comment Period Pursuant to S.C. Code Ann. Section 1-23-110:

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on Tuesday, October 30, 2007, at 10:00 a.m. in room 1041 at the Stern Business Center, Suite 102, at 8911 Farrow Road in Columbia. The purpose of the forum is to answer questions and to receive public comments from interested persons on the proposed amendment of R.61-79.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Richard Haynes, Director, Division of Waste Management, 2600 Bull Street, Columbia SC 29201. To be considered, comments must be received no later than 5:00 p.m. on October 30, the close of the public comment period. Public comments received at the Forum and during the public comment period will be considered in formulating the final proposed regulation for public hearing before the Board as noticed below.

Information or copies of the proposed text for public notice and comment may be obtained at <u>http://www.scdhec.gov/lwm/html/public.html</u> or by calling Carolyn McLaughlin at (803) 896-4254.

Relevant ublic comments received at the Forum and during the public comment period above-noticed shall be submitted to the Board of Health and Environmental Control in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

# Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendments of R.61-79 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 13, 2007. The public hearing will be held in the Board Room of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control (DHEC) at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m., at which time the Board will consider items in the order presented on its agenda. The Board's agenda will be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

# **Preliminary Fiscal Impact Statement:**

There will be minimal cost to the state and its political subdivisions. See Statement of Need and Reasonableness below.

# Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with S. C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11).

# DESCRIPTION OF REGULATION:

<u>Purpose</u>: The purpose of this amendment is to maintain State consistency with relaxed regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 <u>CFR</u> 260, 261,

264, 265, 268, and 270 by the US EPA at 70 FR 57769 on October 4, 2005; 70 FR 59402 on October 12, 2005 and 71 FR 16862 on April 4, 2006 publication in the Federal Register. Revision of the appeal provisions is necessary pursuant to State Law (2006 S.C. Act No. 387).

Legal Authority: South Carolina Hazardous Waste Management Act, S. C. Code Ann. Section 44-56-10 et seq. (2002 & Supp. 2006) and Section 44-56-30.

<u>Plan for Implementation</u>: Upon final approval by the Board of Health and Environmental Control, review by the General Assembly, and publication in the State Register as a final regulation, amended regulations will be provided in hard copy to the community at cost through the Department's Freedom of Information Office and at the Bureau web site in electronic formats.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: These amendments are needed and reasonable because they streamline the regulatory process while still protecting public health and the environment.

The Headworks Exemption rule is designed to reduce unnecessary regulation of some low risk wastes. The exemption to the rule is applied to wastewater-solvent mixtures in which the solvent content is so insignificant that its treatment by the wastewater treatment system would effectively eliminate the human health and environmental risk.

The Standards for Hazardous Air Pollutants for Hazardous Waste Combustors is reasonable in shifting regulation of hazardous air pollutants emissions to the Clean Air Act and away from RCRA regulation, eliminating redundancy.

The Burden Reduction Rule is designed to amend federal hazardous waste regulations to reduce recordkeeping, reporting and inspection requirements imposed on businesses, states and the public. Regulators can still request any reporting necessary to protect human health and the environment.

Revision of the appeal provisions is necessary pursuant to State Law (2006 S.C. Act No. 387).

DETERMINATION OF COSTS AND BENEFITS: The Headworks Exemption rule is designed to reduce unnecessary regulation of some low-risk wastes and as such will reduce costs to the state and the regulated community.

The Standards for Hazardous Waste Combustors is neither more nor less stringent than the pre-existing federal program. The standards already exist under RCRA and this rule describes the transition from the RCRA permit to the MACT air emissions and operation requirements in the Clean Air Act Title V permit so there will be no additional burden to the state regulators, just a shift to greater management of combustors under the Clean Air Act and less regulation under RCRA.

EPA has estimated the burden reduction rule will save up to \$3 million annually and up to 37,000 hours annually in labor time. Affected industries include manufacturing, transportation, waste treatment and mineral processing. The state regulators will also have less paper work to keep track of and reduced reports to review while having access to the reports onsite at the facilities.

No costs are expected to implement new appeal provisions pursuant to state law.

UNCERTAINTIES OF ESTIMATES: No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: In the Headworks Exemption rule, the solvent content is so insignificant that its treatment by the wastewater treatment system would effectively eliminate the human health and environmental risk. Provisions remain to protect the environment and human health if the solvents exceed levels specified in the rule. The Standards for Hazardous Waste Combustors eliminates

duplication of regulation under RCRA and the Clean Air Act, making the enforcement of the regulations more streamlined while still regulating health and the environment. The Burden Reduction rule reduces recordkeeping reporting and inspection frequency, reducing costs to the regulated community as well as frequency of inspections by regulators but the rule has provisions to protect the environment and provides for regulators to have access to any reports necessary to assure protection of the environment.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: The State's ability to implement federal requirements will not be affected whether or not these amendments are adopted, as each is less stringent than current regulation. However, the adoption of these regulations will support the federal paper reduction act in minimizing the amount of paperwork reporting required of industry and reviews by regulators. The EPA determined the burdens placed by previous requirements in these areas were unnecessarily burdensome to both the regulators and the regulated community. Regulating Hazardous Waste Combustors by both RCRA and the Clean Air Act required duplication of effort without materially improving the protection of the environment.

Revision of the appeal procedures is mandated by state law. There will be no detrimental effect.

### **Statement of Rationale:**

Upon review of the final rules published by EPA in this regulation package, including changes which streamlined recordkeeping and reporting in the Burden Reduction Rule, the changes in the Combustors rule and the exemptions proposed in the Headworks Exemption Rule, an administrative decision to adopt the rules was made based on the assumption that the reduction in stringency would simplify the regulations without compromising human health and the environment. The Burden Reduction Rule relaxes certain recordkeeping, reporting, and inspection requirements for both the regulated community and the state. The Hazardous Waste Combustors Rule outlines the transition from RCRA permitting requirements to compliance with the maximum achievable control technology (MACT) standards referenced in the Clean Air Act. The Headworks Exemption Rule adds two solvents to the list of wastewater-solvent mixtures that are exempt from being defined as hazardous wastes. Changes to the appeals procedure is required to conform to recent amendments to state law.

# Text:

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

# Document No.3154 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: S.C. Code Section 44-1-140 (11) and 44-1-150 and Sections 48-1-10 to -350.

R.61-56. Individual Sewage Treatment and Disposal Systems

# Preamble:

The Department of Health and Environmental Control proposes to substantially amend R.61-56. Individual Sewage Treatment and Disposal Systems. This regulation was promulgated pursuant to S.C. Code Section 44-1-140 (11) *et seq.* and Sections 48-1-10 to -350, S.C. Code of Laws, and was last amended on June 27, 1986; since the last revision, there have been numerous changes in the technologies of design and installation of onsite wastewater systems. It is necessary to strike the text of the existing regulation in total and rewrite the regulation in its entirety to incorporate the extensive changes. The proposed amendments include updates in nomenclature and technology, clarification of site requirements and system requirements, and

changing the title of the regulation. Amendments also incorporate construction standards into the regulation that heretofore had been defined in agency standards. Language in the regulation will also be updated to correlate with changes in the administrative appeals process pursuant to 2006 S.C. Acts 387.

Staff initiated the statutory process for the amendment of R.61-56 by publication of a Notice of Drafting in the *State Register* on January 26, 2007. The drafting comment period ended on February 28, 2007; comments from this notice were considered in formulating the proposed revision. See the Discussion of Proposed Revisions below and the Statement of Need and Reasonableness herein.

Discussion of Proposed Revisions:

R. 61-56 The title of the regulation is revised to reflect current nomenclature.

Contents. A table of contents has been added.

Section 100. This section lists the references and explains the purpose of the regulation and what it is intended to address.

Section 101. Sixty new definitions as follows: Accessible, Alternative System, Alternative Tile Field Products, Applicant, Campground, Canal, Color Charts, Critical Area Line, Curtain Drain, Department, Ditch, Effluent, Embankment, Environmentally Sensitive Waters, Existing System, Expansive Soils, Failing Onsite Wastewater System, Fiberglass Reinforced Plastic, Field Book for Describing and Sampling Soils, Flexural Modulus of Elasticity, Flexural Strength, Gel Coating, Grease Trap, Gleying, Industrial Process Wastewater, Long-Term Acceptance Rate, Mottling, NSF Standard #14, Operation and Maintenance, Parent Material, Plasticity, Primary Treatment, Public Water System, Pump Chamber, Receptor, Redox Depletions, Redoximorphic Features Remote Tile Field, Repair, Repair or Replacement Area, Restrictive Horizon, Resin, Saprolite, Sealant, Septic Tank, Serial Distribution, Soil Structure, Specialized Onsite Wastewater System Design (greater than 1500 gpd), Stickiness, Tilefield or Drain Field, Ultimate Tensile Strength, Upgrade/Expansion, Wastewater Treatment Facility, and Zone of Saturation.

This section transfers and revises definitions from the existing R. 61-56, Section II, Definitions as follows: Conventional Soil Final Treatment and Disposal, Grease Trap, Individual Sewage Treatment and Disposal System, Permit, and Sewage. The following definitions are deleted from the existing Regulation 61-56, Section II, Definitions: Lint Trap and Oil /Water Separator.

Section 102. This section reflects current nomenclature regarding general aspects of R. 61-56, such as, when an approved means for treatment and disposal of domestic wastewater is needed, insuring that permits are not in conflict with 208(b) of the Federal Clean Water Act, and when large (greater than1500 gpd) and community onsite wastewater systems are required to have a Land Application Permit under Regulation 61-9.505.

Section 103. This section is added to address wastewater disposal and sanitary dump stations for campgrounds utilizing onsite wastewater systems.

Section 103. This section reflects current nomenclature for processing applications, issuing permits, and approving installations. It adds that the department will issue construction and operation permits and that permits will be valid for a period of five (5) years.

Section 200. This section reflects current nomenclature for minimum site conditions and adds the following: increases the setback from receptors to seventy-five (75) feet; requires fifty (50) percent repair area for an onsite wastewater system and one hundred (100) percent repair area on community systems and mass installations; requirements for perpetual maintenance of the sewer lines and mass tile field area.

Section 201. This section reflects current nomenclature for properly sizing septic tanks and adds requirements for grease traps relative to the primary treatment of wastewater.

Section 202. This section reflects current nomenclature for the proper sizing of aggregate used in onsite wastewater systems and the proper installation of drop boxes for the final treatment and disposal of wastewater.

Section 203. This section reflects current nomenclature for additional construction requirements that may be needed for proper system installation, depending upon terrain.

Section 204. This section has been added to provide specific details for evaluating alternative tile field products based on the soil infiltrative surface.

Section 300. This section reflects current nomenclature relative to restrictions for issuing septic tank permits when a wastewater treatment facility is accessible for connection.

Section 301. This section reflects current nomenclature for prohibiting surface discharge from onsite wastewater systems without an appropriate permit.

Section 302. This section clarifies enforcement actions, including permit revocations, since a permit addresses both construction and operation. It also adds language specifying the appeals process for any department enforcement action.

Section 303. This section reflects current nomenclature.

Section 304. This section has been added to require owners to apply for and receive approvals for any upgrades/expansions to existing onsite wastewater systems.

Section 305. This section protects the remainder of the regulation should any part of the regulation be deemed unlawful or invalid.

Section 400. This adds appendices that incorporate Department standards, heretofore used under the authority of R.61-56, into the text of the regulation.

Section 401. This standard addresses the requirements of large (greater than1500 gpd) and community onsite wastewater systems.

Section 402. This standard addresses onsite wastewater designs for sites with a zone of saturation at least twenty-four (24) inches below the ground surface and when soil texture in the upper eighteen (18) inches of naturally occurring soil is no more limiting than Class IV.

Section 403. This standard addresses onsite wastewater designs for sites with a zone of saturation at least twenty-one (21) inches below the ground surface and when soil texture in the upper eighteen (18) inches of naturally occurring soil is no more limiting than Class IV.

Section 404. This standard addresses onsite wastewater designs for sites with a zone of saturation at least twenty (20) inches below the ground surface and when soil texture in the upper eighteen (18) inches of naturally occurring soil is no more limiting than Class III.

Section 405. This standard addresses onsite wastewater designs for sites with a zone of saturation at least twelve (12) inches below the ground surface and when soil texture in the upper eighteen (18) inches of naturally occurring soil is no more limiting than Class III.

Section 406. This standard addresses onsite wastewater designs for sites where rock formation is greater than four (4) feet below the ground surface and there is no evidence of a zone of saturation in the unconsolidated saprolite layer.

Section 407. This standard addresses onsite wastewater designs for sites with a zone of saturation at least fifteen (15) inches below the ground surface and where soil texture in the upper eighteen (18) inches of naturally occurring soil is no more limiting than Class III.

Section 408. This standard addresses onsite wastewater designs with alternative trench width and depth, and that must conform with applicable requirements for soil conditions, depth to rock and other restrictive horizons, and depth to the zone of saturation for conventional and alternative onsite wastewater systems.

Section 409. This standard addresses onsite wastewater designs for sites with rippable rock formations with no evidence of a zone of saturation in the unconsolidated saprolite layer.

Section 410. This standard addresses onsite wastewater designs for sites with a zone of saturation at least twelve (12) inches below the ground surface in Class IV soil.

Section 411. This standard addresses onsite wastewater designs that allow the use of double stone depth to decrease the linear footage of the system if the site meets the offsets to the zone of saturation and restrictive horizons.

Section 412. This standard addresses onsite wastewater designs for sites with a zone of saturation at least six (6) inches below the ground surface. The texture in the upper twelve (12) inches of the natural soil must be Class I or Class II, and the permeable substratum must be no more limiting than Class II.

Section 413. This standard addresses onsite wastewater designs for sites with a zone of saturation at the ground surface and requires filling the site with sand in order to meet the required offset to the zone of saturation. The texture in the upper eighteen (18) inches of the natural soil must be a Class I or Class II.

Section 414. This system is similar to the system described in Section 413, except that this system has a wall to contain the fill material.

Section 415. This standard allows the property owner to have a Professional Soil Classifier and Professional Engineer reevaluate denied sites for the use of a specialized onsite wastewater system. These specialized systems are designed by the engineers and submitted to the Department for permitting.

Section 416. This standard addresses design criteria for curtain drains, which are subsurface interceptor drains that collect and redirect seasonal groundwater to an appropriate discharge point away from the onsite wastewater system.

Section 500. This standard addresses the absorption rate of the soil at a site being evaluated; the soil absorption rate determines the size of the tile field for onsite wastewater system.

Section 501. This standard is used determine the peak wastewater flow for an establishment if actual comparable flow data is not available from a similar establishment.

Section 600. This standard is used to determine the appropriate size of an effluent pump, if needed, for an onsite wastewater system.

Section 700. This standard addresses minimum designs for concrete tanks utilized for septic tanks, grease traps, and pump chambers in onsite wastewater systems

Section 800. This standard is similar to Section 700 and addresses specifically, minimum requirements for fiberglass reinforced plastic tanks.

## Notice of Staff Informational Forum and Public Comment Period:

Staff of the Department of Health and Environmental Control invites interested members of the public and the regulated community to attend a staff-conducted informational forum to be held on October 29, 2007 at 10:00 a.m. in the Peeples Auditorium at the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive public comments from interested persons on the proposed amendments of R.61-56. Individual Sewage Treatment and Disposal Systems.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations to Mr. Leonard Gordon at the South Carolina Department of Health and Environmental Control, Bureau of Environmental Health, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on October 30, 2007, the close of the public comment period. Comments received at the Staff Informational Forum and during the public comment period will be considered in perfecting the final proposed regulation for public hearing as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Mr. Leonard Gordon at the South Carolina Department of Health and Environmental Control, Bureau of Environmental Health, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 896-0646. A copy of the Notice of Proposed Regulation may also be obtained from the Department's Regulatory Information Internet site(s) at <u>http://www.scdhec.gov/administration/regs/</u>. Click on *Regulation Development Update;* then click on *the Environmental Health* category and browse for this proposed regulation.

Public comments received at the forum and/or during the public comment period above-noticed shall be submitted to the Board of Health and Environmental Control in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

# Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and the regulated community are invited to comment on the proposed amendments of R. 61-56. Individual Sewage Treatment and Disposal Systems at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 13, 2007. The public hearing is to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four (24) hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and, as a courtesy, are asked to provide written copies of their presentation for the record.

#### **Preliminary 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:

<u>Purpose:</u> The proposed amendments include updates in nomenclature and technology, clarification of site requirements and system requirements, and changing the title of the regulation. Amendments also incorporate construction standards into the regulation that heretofore had been defined in agency standards. Language in the regulation will also be updated to correlate with changes in the administrative appeals process pursuant to 2006 S.C. Acts 387.

Legal Authority: The legal authority for R.61-56 is Sections 44-1-140 (11) and 44-1-150 and Sections 48-1-10 to -350, S.C. Code of Laws.

<u>Plan for Implementation:</u> The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and the General Assembly, and publication in the *State Register*. The regulated community will be provided copies of the regulation. DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

R.61-56 protects the health and environment of South Carolina's citizens by ensuring that septic tank systems are properly located, designed and installed. The regulation sets forth the requirements for system sites and the standards for construction and installation. The Regulation was last amended on June 27, 1986. Since the last revision, there have been numerous changes in the technologies of design and installation of onsite wastewater systems. It is necessary to strike the text of the existing regulation in total and rewrite the regulation in its entirety to incorporate the extensive changes. The proposed amendments include updates in nomenclature and technology, clarification of site requirements and system requirements, and changing the title of the regulation. Amendments also incorporate construction standards into the regulation that heretofore had been defined in agency standards. Language in the regulation will also be updated to correlate with changes in the administrative appeals process pursuant to 2006 S.C. Acts 387.

DETERMINATION OF COSTS AND BENEFITS: There are no anticipated new costs associated with the implementation of this regulation. There will be a benefit to South Carolina by ensuring that the regulation, and the Department, continues to protect the health and environment of South Carolina's citizens by ensuring that septic tank systems are properly located, designed and installed.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: The proposed regulation will ensure that the health and environment of South Carolina's citizens by ensuring that septic tank systems are properly located, designed and installed.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: Not implementing the regulation will prevent continued assurance that septic tank systems are properly located, designed and installed; this could have a detrimental effect on the health of South Carolina's citizens and visitors.

#### **Statement of Rationale:**

The determination to revise this regulation was in response to changes in nomenclature and technology, the need for clarification of site requirements and system requirements, and the need to incorporate construction standards into the regulation that heretofore had been defined in agency standards.

# Text:

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

### Document No.3152 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority: 1976 Code Section 44-2-50

R.61-92. Underground Storage Tank Control Regulations

#### **Preamble:**

The Department proposes to amend Regulation 61-92, *Underground Storage Tank Control Regulations*. The changes will implement the Underground Storage Tank Compliance Act provisions of the Federal Energy Policy Act (U.S. Public Law 109-58) as addressed below:

(1) Establish a requirement for new or replacement underground storage tanks, piping and dispensers to be secondarily contained;

(2) Establish the process whereby the Department can impose a delivery prohibition on an out of compliance tank or tanks;

(3) Establish the requirement for the Department to develop an Operator Training Plan and for owners and operators to have trained operators; and

(4) Make administrative corrections to the current regulation to comply with requests from the U.S. Environmental Protection Agency (USEPA) to assist in the codification process for state program approval.

(5) Make language changes related to appeals to correlate to 2006 S.C. Act No. 387.

Notice of Drafting for the proposed amendment was published in the State Register on June 22, 2007. There were no written comments submitted. See Discussion of Proposed Revisions below and Statement of Need and Reasonableness herein.

Discussion of Proposed Revisions:

(1) Establish a requirement for new or replacement underground storage tanks, piping and dispensers to be secondarily contained.

Section Citation and Explanation of Change: 280.12 Definitions New text added to define "Community Water Systems". 280.12 Definitions New text added to define "Interstitial Space". 280.12 Definitions New text added to define "Potable Drinking Water Well". 280.12 Definitions New text added to define "Replace". 280.12 Definitions New text added to define "Replace". 280.12 Definitions New text added to define "Under-Dispenser Containment (UDC)".

280.20(g)New text added as item g to describe secondary containment requirement and application.280.33(c)New text added to clarify secondary containment requirement during piping repair/replacement.

# (2) Establish the process whereby the Department imposes delivery prohibition on an out of compliance tank or tanks.

Section Citation and Explanation of Change: 280.23(e)-(m) New text added as items e through m to clarify delivery prohibition criteria and procedures.

# (3) Establish the requirement for the Department to develop an Operator Training Plan and for owners/operators to have trained operators.

Section Citation and Explanation of Change: Table of Contents 280.35 added under Subpart C. 280.34(b)(6) New text added as item 6 to introduce operator training documentation requirements. 280.35 New text added as item 280.35 to establish operator training requirement and to task Department with development of Operator Training Plan.

# (4) Make stylistic changes requested by the U.S. Environmental Protection Agency (USEPA) so that codification of the State's UST Control Regulations can be finalized.

Section Citation and Explanation of Change: 280.12 Definitions Made "Noncommercial purposes" and "On the premises where stored" two separate entries for clarity. 280.12 Definitions Added outline codification to the definition of "Regulated Substance" and changed "though" to "through". 280.20(b)(1)(D) Changed "2" to "s". 280.20(b)(3)(ii) Changed (B) to (b). [Note] Changed (B) to (b). 280.20(e) Changed (d) to (e). 280.20(f) Changed (d) to (e). 280.20(f)(6) Changed (d) to (e). 280.(h) The item previously numbered as (g) is being renumbered as (h). The text did not change. 280.20(i) The item previously numbered as (h) is being renumbered as (i). The text did not change. 280.22(a) Changed "an existing" to "a". New text added to clarify which form notification is to be made on. 280.22(b) New text added to clarify which form notification is to be made on. 280.22(d)

Remove "existing". New text added to indicate the time frame for notification. 280.22(i) The existing text of (i) revised to clarify the Department's authority and delete reference to appeals. 280.23(b)(2)Change (d) to (e). 280.23(d) Existing text of (d) revised to delete reference to appeals. 280.23(n)The item previously numbered as (e) is being renumbered as (n). The text did not change. SUBPART C Hyphen removed to match other subpart headings. 280.34(a)(1)Change (e) to (f). 280.40(c)Chart redrawn for clarity. RD Corrected reference 280.419(a) to 280.41(a). 280.43(b)(4) Chart redrawn for clarity. 280.71(a) Correct spelling of "least"; new text added to clarify time frame for notification requirement. 280.104(d) Correct spelling "Poor's".

(5) Changes to correlate with changes in the administrative appeals process pursuant to 2006 S.C. ACT No. 387.

Section Citation and Explanation of Change 280.302 (a)-(b) Text revised to incorporate latest appeal procedures.

# Notice of Staff Informational Forum and Public Comment Period Pursuant to S.C. Code Ann. Section 1-23-110:

Staff of the Department of Health and Environmental Control invite interested members of the public to attend a staff-conducted informational forum to be held on October 30, 2007, at 10:00 a.m. in G. S. T. Peeples Auditorium, Third Floor, Sims Building of the Department at 2600 Bull Street, Columbia, S.C. The purpose of the forum is to answer questions, clarify issues and receive formal comments from interested persons on the proposed regulation.

Interested persons are also provided an opportunity to submit written comments to Robert L. Hutchinson at South Carolina Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, S.C. 29201. Written comments must be received no later than 4:00 p.m. on October 30, 2007. Written comments must be received by the deadline date to be considered in formulating the final proposed amendment for public hearing before the Board of Health and Environmental Control as noticed below. Comments received during the Forum and Public Comment Period shall be submitted to the Board in a Summary of Public Comments and Department Responses for consideration at the public hearing.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Robert L. Hutchinson at the South Carolina Department of Health and Environmental Control, Bureau of Land and Waste Management, Underground Storage Tank Program, 2600 Bull Street, Columbia, S.C. 29201, or by calling (803) 896-7957. Also an electronic copy may be obtained on the Department's website from its *DHEC Regulation Development Update* at <a href="http://www.scdhec.gov/administration/regs/">http://www.scdhec.gov/administration/regs/</a>. Click on, choose Land and

Waste Management Category, and scan down for proposed amendment of R.61-92, Underground Storage Tank Control Regulations.

# Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on December 13, 2007 to be held in Room 3420 (Board Room) of the Commissioner's Suite, third floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statement to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

# **Preliminary Fiscal Impact Statement:**

The proposed regulation will result in fiscal impact to the State and its political subdivisions that own or operate regulated underground storage tanks (USTs). There are no identified additional personnel resource requirements necessary to implement this regulation. This regulation requires underground storage tank owners and operators to be trained on UST systems. Owners and operators will have various options for obtaining UST systems training, to include in-house training programs and training available through the Department of Health and Environmental Control. Additionally, this regulation requires new or replacement UST systems to have secondary containment when installed within one thousand feet of a community water system or potable drinking water well. Installed cost for a UST system with secondary containment is approximately 30% above that of an installed UST system. These costs (training and secondary containment) will be offset by fewer petroleum releases, quicker detection and reporting of releases, less environmental harm to the state's groundwater and surface water resources, and human health. Owners and operators should benefit from having better trained operators, improved UST systems, and fewer and less costly releases to the environment.

# Statement of Need and Reasonableness:

This statement of need and reasonableness was determined by staff analysis pursuant to S.C. Code Section 1-23-115(C)(1)-(3) and (9)-(11).

# R.61-92. Underground Storage Tank Control Regulations

<u>Purpose</u>: The proposed amendments will allow the State to be compliant with the federal Underground Storage Tank Compliance Act, part of the Energy Policy Act, U.S. Public Law 109-58 – August 8, 2005, to make stylistic changes requested by the U.S. Environmental Protection Agency (USEPA) so that codification of the State's UST Control Regulations can be finalized, and update language in Regulation 61-92 to correlate with changes in the administrative appeals process pursuant to S.C. Act 387 (2006). The additions are intended to reduce the number of releases from underground storage tank (UST) systems, provide early detection of releases, minimize impact from releases, and ensure owners and operators have assigned responsibility to provide immediate response to emergencies caused by releases from operating UST systems.

Legal Authority: State Underground Petroleum Environmental Response Bank Act, South Carolina Code Annotated, Section 44-2-50.

<u>Plan for Implementation</u>: The proposed additions will take effect upon approval by the Board of Health and Environmental Control and the South Carolina General Assembly and publication as final regulations in the

*South Carolina State Register.* The proposed regulatory additions will not require additional staffing. The proposed regulatory additions will have negligible impact on other program areas.

Secondary Containment: The Department's existing UST permitting process for construction of new UST systems being installed will facilitate implementation of secondary containment requirements. New installation permits issued prior to the effective date of the proposed regulatory change will not be affected. Permits issued subsequent to the effective date will require secondary containment.

Delivery Prohibition: The authority to impose delivery prohibition for UST systems is provided in existing law, South Carolina Code Section 44-2-50. The federal requirement is for states to have written criteria for determining when a UST is ineligible to receive product and procedures for implementing delivery prohibition against an individual tank or a facility. Staff is proposing delivery prohibition, when appropriate, be imposed on an individual tank basis.

Operator Training requirements: Training requirements will be detailed in a Training Plan to be developed in coordination with UST owners and operators. An Operator Training Workgroup composed of DHEC staff and UST owners and operators will develop the Training Plan. The Training Plan will be published no later than August 8, 2009. Operator training will be required no later than two years subsequent to the Operator Training Plan publication date. The final plan will be distributed to stakeholders and interested parties through electronic mail, the postal service, and via the Internet on the Department's web site. Additionally, DHEC staff will conduct stakeholder meetings statewide to present the Operator training Plan.

Electronic copies of the final regulations will be available from the State Register and from the Bureau of Land and Waste Management Website. Print versions will be available in the State Register and by request from the Department's Freedom of Information Office.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATIONS BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The proposed regulations are needed for the State to be compliant with new requirements of the federal Energy Policy Act, to respond to U.S. Environmental Protection Agency (USEPA) requests so that codification of the State's UST Control Regulations can be finalized, and to update language in Regulation 61-92 to correlate with changes in the administrative appeals process pursuant to S.C. Act 387 (2006).. The secondary containment requirement for UST systems installed within 1,000 feet of a community water system or potable drinking water well will provide greater protection for drinking water resources. While secondarily contained UST systems will cost owners approximately 30% above the cost of systems without secondary containment, owners should over time realize a cost avoidance through fewer and less severe releases to the environment. The delivery prohibition criteria and procedures reflect current practice. The new training requirements will provide UST system operators with needed training and best management practices that should result in fewer compliance violations, fewer enforcement actions, and increased protection for the environment. There are no detrimental effects associated with promulgation of delivery prohibition, the administrative changes, and the appeals procedures.

DETERMINATION OF COSTS AND BENEFITS: There will be cost incurred by the Department for developing the Operator Training Plan and costs associated with developing various means of delivering operator training. The Department will receive federal grant funding for such costs. State political subdivisions may experience some costs associated with obtaining operator training. However, the train-the-trainer concept will greatly minimize costs for everyone. To further minimize cost to the regulated community, the Operator Training Plan will recognize training programs that may currently be in place or developed after the Operator Training Plan is published. There will be no costs for implementing the delivery prohibition procedures. There will be an approximate 30% increased cost for installing secondarily contained UST systems above UST systems without secondary containment. This cost will be experienced by the State, its political subdivisions, and the regulated community only when new UST systems are installed. The secondary containment requirements do not affect existing UST systems. The benefits derived from the new requirements will be

better-trained operators, fewer releases from operating systems, and increased protection for the environment and human health. The administrative changes to support U.S. EPA requests and to correlate to the administrative appeals language of S.C. Act 387 (2006) will have no associated costs for the State, the political subdivisions, or the regulated community.

UNCERTAINTIES OF ESTIMATES: The increased cost for installing new UST systems with secondary containment will vary depending on factors such as the number of tanks, type of materials, installer, and local site conditions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: There should be fewer releases and less impact to the environment due to releases from operating UST systems.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATIONS ARE NOT IMPLEMENTED: The number of leaking UST systems reported each year and the severity will continue to have detrimental effects on the environment and public health. According to reports from the Environmental Protection Agency, on a national basis, leaking UST systems are the leading source for contaminating groundwater. South Carolina has documented nearly 9,000 releases from UST systems and approximately 3,200 releases remain in need of assessment/cleanup action. Leaking UST systems will continue to impact utility systems, such as water lines, and continue to be a drain on the taxpayers and the environment.

# Statement of Rationale:

U.S. Public Law 109-58 (August 8, 2005) established new federal requirements for regulated underground storage tanks. These proposed regulatory amendments are necessary to comply with the changes in law. Additionally, these revisions make stylistic corrections requested by the U.S. Environmental Protection Agency to aid in codification of the regulations as part of the state program approval process. Finally, these revisions correlate the language in the regulations to that in 2006 S.C. Act No 387.

The Underground Storage Tank Compliance Act provisions of the Energy Policy Act of 2005 (U.S. Public Law 109-58) established new requirements to be incorporated into the state Underground Storage Control Regulations. One of the requirements was for the state to choose between requiring manufacturers and installers of underground storage tanks and equipment to maintain financial responsibility along with certification of installers or requiring secondary containment on new or replacement tanks, piping and motor fuel dispensers. The second requirement was that the state establish the authority to prohibit delivery of product to out of compliance tanks. The third requirement was that the state establish a requirement for operator training and require tank owners and operators to identify and train operators of underground storage tank systems.

The Department held a series of informal stakeholder meetings around the state beginning in November 2006 through May 2007. Attendees at the meetings included tank owners, tank operators, equipment manufacturers, tank testers, tank installers, service providers, and representatives from the South Carolina Petroleum Marketers Association, the South Carolina Petroleum Council, and the South Carolina Association of Convenience Stores. At these meetings, the Department outlined the requirements of the Energy Policy Act and received input from the stakeholders on the choices facing the Department regarding financial responsibility or secondary containment. The Department also solicited comments on the delivery prohibition process and what types of training should be included or made available.

From these meetings, the Department determined that secondary containment was a more environmentally responsible option over financial responsibility for manufacturers and installers. The financial responsibility option did not offer any additional protection for the resource and the consensus at the meetings was that trying to pin down responsibility for a failure of any portion of a tank system in the years after an installation

would be almost impossible. Therefore, the Department has chosen the secondary containment option, and the amendment proposed herein does not address the financial responsibility option. These proposed regulatory amendments are necessary to comply with the requirements of federal and state law.

### Text:

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

### Document No. 3155 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: South Carolina Code Ann. Sections 1-23-10, et. seq., Sections 44-1-10 et. seq., and Sections 48-1-10 et. seq.

R.61-9. Water Pollution Control Permits

# Preamble:

The Department proposes to amend Regulation 61-9 for three purposes, as follows:

**Proposal 1**: These revisions will incorporate changes to United States Environmental Protection Agency regulations promulgated in the Federal Register October 14, 2005, at 70 Federal Register 60,134, some of which the Department is not required to adopt.

**Proposal 2**. These revisions will include requirements of 2006 S.C. Act No. 387 related to appeals of permits and orders of the Department.

Proposal 3: These revisions will make miscellaneous corrections to various parts of Regulation 61-9.

Notices of Drafting for this proposed amendment were published in the State Register on March 23, 2007 and May 25, 2007. Public comments received from all notices were considered in these proposed amendments. The proposed amendments will require legislative approval.

# **Discussion of Proposed Revisions:**

See section-by-section discussion of the proposed revisions of Regulation 61-9 in the Statement of Need and Reasonableness herein.

# Notice of Staff Informational Forum and Public Comment Period Pursuant to S.C. Code Ann. Section 1-23-110:

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 31, 2007, at 10:00 a.m. in Peeples Auditorium, third floor of the Sims Building at the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. The purpose of the forum is to answer questions, clarify any issues, and receive public comments from interested persons on the proposed amendments of R.61-9. Water Pollution Control Permits. Please use the front entrance of the building facing Bull Street if you plan to attend.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations to Andy Yasinsac at the South Carolina Department of Health and Environmental Control, Bureau of Water,

2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 4:00 p.m. on November 6, 2007, the close of the public comment period. Comments received at the Forum and during the public comment period will be considered in formulating the final proposed regulation for public hearing before the Board as noticed below.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Andrew Yasinsac, Jr. at the Bureau of Water of the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4237. A copy of the Notice of Proposed Regulation may also be obtained from the Department's Regulatory Information Internet site(s) at <u>http://www.scdhec.gov/administration/regs/</u>. At this site, click on *Regulation Development Update*, "Water" category, and browse for this proposed regulation.

Public comments received at the forum and/or during the public comment period above-noticed shall be submitted to the Board of Health and Environmental Control in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

# Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to comment on the proposed amendments of R. 61-9, Water Pollution Control Permits, at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 13, 2007. The public hearing is to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less and as a courtesy are asked to provide written copies of their presentation for the record.

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

There is expected to be no significant cost from these amendments to industrial users, that is, pretreaters, of publicly owned treatment works (POTW). These amendments allow reduced monitoring, both in the number of parameters monitored and in the frequency of monitoring. This may only occur in appropriate circumstances, which are defined in the Text of Proposed Amendments and the Statement of Need and Reasonableness below.

Minimal additional costs to POTW and the Department will accrue from the time involved in review of requests by industrial users for reduced monitoring.

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

This statement of need and reasonableness and rationale has been developed based on staff analysis pursuant to S.C. Code Sections 1-23-110(A)(3)(h) and 115(C)(1) - (3) and (9) - (11):

DESCRIPTION OF REGULATION: S.C Regulation 61-9, Water Pollution Control Permits.

<u>Purpose</u>: The Department proposes to amend Regulation 61-9 for three purposes:

**Proposal 1**: These revisions will incorporate changes to United States Environmental Protection Agency regulations promulgated in the Federal Register October 14, 2005, at 70 Federal Register 60,134, some of which the Department is not required to adopt.

**Proposal 2**: These revisions will include requirements of 2006 S.C. Act No 387 related to appeals of permits and orders of the Department.

**Proposal 3**: These revisions will make miscellaneous corrections to various parts of Regulation 61-9. Legal Authority:

This change to state law is authorized by S.C. Code Title 1, Chapter 23; Title 44, Chapter 1; and Title 48, Chapter 1; the Clean Water Act, 33 U.S.C. 1251, et seq.; and United States Environmental Protection Agency regulations promulgated in the Federal Register (FR) of October 14, 2005.

### Plan for Implementation:

The proposed amendments will make changes to and be incorporated into R.61-9 upon approval of the Board of Health and Environmental Control and the General Assembly and publication in the *State Register*.

The additional effort required by the Department will consist mainly of reviews of requests by industrial users of publicly owned treatment works (POTW) for waivers of monitoring and for less frequent monitoring. The additional work required by the proposed amendments will total about five employee-weeks of effort during the first year. As budget constraints appear to prohibit addition of positions, the additional work will be integrated with present operations.

DETERMINATION OF NEED AND REASONABLENESS FOR THE PROPOSED REGULATION AND EXPECTED BENEFIT:

**Proposal 1:** This proposal will amend Regulation 61-9 to incorporate changes to the United States Environmental Protection Agency regulations, some of which the Department is not required to adopt. This proposed rule would revise several provisions of the General Pretreatment Regulations, including changes published at 70 Federal Register 60134, October 14, 2005, that address requirements for, and oversight of, Industrial Users who introduce pollutants into Publicly Owned Treatment Works (POTW). This proposed rule includes changes to certain program requirements to be generally consistent with National Pollutant Discharge Elimination System (NPDES) requirements for direct dischargers to surface waters. This would change the pretreatment requirements to reduce unnecessary efforts in programs of Industrial Users, Control Authorities (e.g., POTW), and the Department. This will be done by adopting the changes to U.S. Environmental Protection Agency regulations 40 CFR 122 and 403, which were promulgated in the Federal Register October 14, 2005, revising the requirements to include some approval by the Department. Sections for revision are as follows:

a. At item 122.21(j)(6), revise the regulation to correct a reference based on changes elsewhere in the pretreatment amendments.

b. At item 122.44(j)(1), revise the regulation to align the terminology with terminology for municipal pretreatment programs, related to the Federal amendments.

c. At item 122.62(d)(7), revise a reference, per the Federal regulation amendments.

d. At section 403.3.Definitions, related to pretreatment, delete a reserved item, add two (2) new definitions, and renumber the existing items following those which are added, as follows:

(1) At item (b), add the new term, "Best Management Practices, BMP", and the definition, per the Federal changes.

(2) At item (c), add the new term, "Control Authority", and the definition, per the Federal changes.

(3) Revise the numbering of previous items (b) to (p) to read (d) through (q).

(4) Renumber new item (1) as (1)(1) and add new item (2) per Department staff, revising the definition of POTW to include "...a private facility that has been determined to be a regional provider of service identified under the 208 Water Quality Management Plan."

(5) Revise references in the renumbered item (0)(1).

(6) Move previous item (o)(2) to (o)(3) and add new item (o)(2). New (o)(2) defines a "Non-significant Categorical Industrial User."

e. At section 403.5 National Pretreatment Standards: Prohibited Discharges, add items as follows:

(1) Based on staff concerns, new items (c)(2)(i) and (ii) clarifying requirements for limits in pretreatment permits.

(2) New Federal item (c)(4) regarding pretreatment BMP.

(3) Based on staff concerns, new items (d)(1) and (2) clarifying requirements for local limits in pretreatment permits.

f. At section 403.6 National Pretreatment Standards: Categorical Standards,

(1) At paragraph (c), revise a reference, based on the Federal changes.

(2) At paragraph (d)(2), correct a word grammatically.

(3) Add new item (d)(5), allowing limits to be stated as mass rather than as guideline concentrations, with Department approval and under specific circumstances.

(4) Add new item (d)(6), allowing limits, for specific categories of industry, to be stated as concentrations rather than as guideline-based mass, with Department approval and under specific circumstances.

(5) Renumber existing item (d)(5) to (7) and revise the item related to mass versus concentration conversions, or the reverse, of limits, based on Federal requirements.

(6) Renumber existing item (d)(6) to (8) and revise the item related to mass versus concentration conversions, or the reverse, of limits, based on Federal requirements.

(7) Revise paragraphs (e) and (f), each by removing a reference.

g. At section 403.7 Removal Credits,

(1) Revise paragraph (h) introductory language and (h)(2)(i) for grammar and,

(2) Delete and reserve item (h)(2)(ii), related to combined sewer overflows, as there are no combined sewers and none are allowed by regulation in South Carolina.

h. At section 403.8,

(1) Revise item (f)(1)(iii), deleting items (A) through (E) and adding new items (A), allowing use of general control mechanisms, and (B), based on Federal changes;

(2) Revise a reference in item (f)(1)(v), based on the Federal changes;

(3) Revise item (f)(1)(vi)(B) for clarity;

(4) Revise item (f)(2)(v), related to monitoring by POTW of Industrial Users;

(5) Renumber existing item (f)(2)(vi) to (vii);

(6) Add new item (f)(2)(vi) related to plans of Significant Industrial Users related to slug discharges;

(7) Renumber existing item (f)(2)(vii), related to public participation requirements, to (viii) and revise the introductory language and items (A), (B), (C), (F), and (H);

(8) In item (f)(3), add a reference;

(9) In item (f)(4), clarify that a POTW choosing not to develop local limits for a particular Industrial User is subject to concurrence by the Department;

(10) In item (f)(6), revise references.

(i) In section 403.12,

(1) Remove and reserve paragraph (a);

(2) Revise a reference in item (b)(4)(ii), based on Federal changes;

(3) Revise item (b)(5)(ii) concerning best management practices;

(4) Remove item (b)(5)(iii), defining sampling (see new 403.12(g)(3)), per the Federal revisions;

(5) Redesignate items (b)(5)(iv) through (b)(5)(viii), respectively, as items (b)(5)(iii) through (b)(5)(vii);

(6) Revise paragraph (b)(6) for grammar;

(7) Revise item (b)(7)(ii) to conform with earlier Federal language;

(8) Revise paragraph (e)(1) as to Non-significant Categorical Users and BMP, based on the Federal changes;

(9) Delete existing paragraph (e)(2), based on Federal changes;

(10) Add a new paragraph (e)(2), allowing a POTW, with Department approval, to waive sampling by an industrial user, under stated restrictions, based on Federal changes;

(11) Re-designate paragraph (e)(3) as paragraphs (e)(4);

(12) Add new paragraph (e)(3), allowing POTW, with Department approval, to reduce reporting by Industrial Users, with stated restrictions;

(13) Revise item (g)(1), related to Non-significant Categorical Users, based on the Federal changes;

(14) Revise item (g)(2), related to re-sampling after violations, based on the Federal changes;

(15) Per Federal requirements, revise references in item (g)(3) and add requirements related to sampling;

(16) Re-designate items (g)(4) and (g)(5) as items (g)(5) and (g)(6);

(17) Add new item (g)(4), relating to historical sampling, per Federal requirements;

(18) Revise newly designated item (g)(6) for a reference and for sampling requirements, based on the Federal changes;

(19) Revise paragraph (h) as to BMP, based on the Federal changes;

(20) Revise item (i)(1) as to POTW reporting their Industrial Users, based on the Federal changes;

(21) Revise paragraph (j) as to reporting by Industrial Users, based on the Federal changes;

(22) Revise item (l)(1)(ii) as to signatures on reports, based on the Federal changes;

(23) Revise item (l)(2) for grammar;

(24) Revise paragraph (m) to clarify reference to the Department;

(25) Revise item (0)(1) introductory text, based on Federal requirements;

(26) Revise paragraph (o)(2) related to BMP, based on Federal requirements and including staff revisions;

(27) Add paragraph (q) related to certification by Non-significant Categorical Industrial Users, per Federal requirements.

(j) Revise item 403.13(m)(2) related to procedures for appeals to the United States Environmental Protection Agency on Fundamentally-different Factors variances.

(k) In section 403.15,

(1) Revise paragraph (a) related to pollutants in an Industrial User's intake water, based on Federal requirements, and

(2) Revise paragraph (b)(1), based on Federal requirements, related to pollutants in an Industrial User's intake water, by adding new item (i) and redesignating existing language as item (ii).

(1) At Part 403, Appendix G, revise note 1 to Table I, Regulated Pollutants in Part 503 Eligible for a Removal Credit to refer to carbon dioxide as well as total hydrocarbons, per Federal requirements, as well as to clarify reference to South Carolina regulations;

**Proposal 2:** These changes are necessary to update Regulation 61-9 to comply with changes in state law pursuant to 2006 S.C. Act No 387 related to appeals of permits and orders. This will be done by adding a reference in the regulation to the appropriate sections of the South Carolina Code, as follows:

(a) Revise the reference in 124.5(b) related to the section of this regulation describing appeals procedures.

(b) Delete paragraph 124.15(c), related to appeals.

(c) Remove the reserved description of section 124.19 and add requirements related to appeals, including those appropriate matters previously stated in 124.15(c) and new requirements for South Carolina Act 387 (2006).

**Proposal 3:** These are miscellaneous changes that are necessary to address clerical corrections, renumbering, relocation, or revision of the existing regulation to reflect the changes resulting from the appropriate revised requirements, as follows:

(a) Revise the definition of "Draft Permit" in paragraph 122.2(b) related to procedures related to appeals stated in Part 124.

(b) Delete the language in paragraph 124.56(e) related to U.S. Environmental Protection Agency regulation, 40 CFR 501 State Sludge Management Program Regulations, and reserve the paragraph.

(c) Revise a reference in 403.7(a)(3)(iv)(C) based on changes in South Carolina solid waste regulations.

(d) Revise references in 503.4(a), (b), and(c) and 504.4(a), (b), and (c) based on changes in South Carolina solid waste regulations.

(e) Revise the document named in 503.12(m) and 504.12(m) to read as follows: "... fertilizer recommendations (such as "Nutrient Management for South Carolina", Cooperative Extension Service, Clemson University, EC 476)." This is a revised edition of the Clemson manual.

(f) In 503.50 and 504.50, state a specific date for the initial requirement to develop an odor minimization plan, based on the promulgation of the regulation.

(g) Revise 505.45(i)(9) to correct a reference.

(h) Revise of the following items to entail only clerical correction:

122.21(k) 122.26(a)(1)(ii) 122.26(b)(14), introductory language 122.26(e)(7)(i)(B) 122.32(a)(2) 122.32(f) 122.62(d)(5) 122.64(a)(4)(ii) 129.103(c)(1)(i)(b) 403.3(c)(2) 403, Appendix G, table II 503.32 Table 4 504.22(a)(2) 504.22(h) 505.41(p)(5)

## DETERMINATION OF COSTS AND BENEFITS:

**Proposal 1:** Costs or benefits to change the pretreatment requirements to reduce unnecessary efforts in programs of Industrial Users, Control Authorities (e.g., POTW), and the Department are as follows:

a. The amendments allow use of best management practices (BMP) in place of treatment methods, when appropriate. [See items 403.3(b), 403.5(c)(4), 403.12(b)(5).] BMP will be used instead of additional treatment by permittees only where there is a cost saving either in capital or operation. Therefore, there should be no additional cost.

b. The amendments designate some industrial users as Non-significant industrial users. [See items 403.3(o), 403.8(f)(2)(vi), 403.12(g)(1), (h)(1).] Designation as a non-significant industrial user would only allow less monitoring and reporting, reducing costs. Therefore, there should be no additional cost.

c. The amendments allow the statement of pounds in limits versus concentration, and the reverse. [See items 403.6(d)(5) - (8).] This essentially consists of the means of reporting analytical data once it is obtained. Therefore, there should be no additional cost.

d. The amendments allow the use of "general control mechanisms" by POTW, that is, a single "control measure covering a number of facilities". [See item 403.8(f)(1)(iii).] A "general control mechanism" may have any requirements of an individual control mechanism. Therefore, the result would be reduced effort and cost on the part of the control authority. There should be no additional cost.

e. The amendments allow POTW to waive or reduce sampling by industrial users of categorical pollutants not expected to be present. [See item 403.12(e).]

(1) As stated, this provision would either reduce or eliminate monitoring for particular pollutants, with appropriate assurance of environmental protection, which is presently required by the pretreatment regulations. Therefore, there should be no additional cost to dischargers.

(2) POTW and the Department will incur review costs for the requests for waivers or reduction of monitoring, particularly soon after passage of these amendments.

**Proposal 2:** Theses changes to administrative requirements will have no costs for complying with permits or for operating facilities. This will be done by adding a reference in the regulation to the appropriate sections of the South Carolina Code, as follows:

(a) Revise the reference in 124.5(b) related to the section of this regulation describing appeals procedures.

(b) Delete paragraph 124.15(c), related to appeals.

(c) Remove the reserved description of section 124.19 and add requirements related to appeals, including those appropriate matters previously stated in 124.15(c) and new requirements for South Carolina Act 387 (2006).

**Proposal 3:** These changes, essentially clerical, will have no compliance costs for permittees or the Department.

(a) Revise the definition of "Draft Permit" in paragraph 122.2(b) related to procedures related to appeals stated in Part 124.

(b) Delete the language in paragraph 124.56(e) related to U.S. Environmental Protection Agency regulation, 40 CFR 501 State Sludge Management Program Regulations, and reserve the paragraph.

(c) Revise a reference in 403.7(a)(3)(iv)(C) based on changes in South Carolina solid waste regulations.

(d) Revise references in 503.4(a), (b), and(c) and 504.4(a), (b), and (c) based on changes in South Carolina solid waste regulations.

(e) Revise the document named in 503.12(m) and 504.12(m) to read as follows: "... fertilizer recommendations (such as "Nutrient Management for South Carolina", Cooperative Extension Service, Clemson University, EC 476)." This is a revised edition of the Clemson manual.

(f) In 503.50 and 504.50, state a specific date for the initial requirement to develop an odor minimization plan, based on the promulgation of the regulation.

(g) Revise 505.45(i)(9) to correct a reference.

(h) Revise the following items to entail only clerical correction:

122.21(k)

122.26(a)(1)(ii) 122.26(b)(14), introductory language

122.26(e)(7)(i)(B)

122.32(a)(2)

122.32(f)

122.62(d)(5)

122.64(a)(4)(ii)

129.103(c)(1)(i)(b)

403.3(c)(2)

403, Appendix G, table II

503.32 Table 4

504.22(a)(2)

504.22(h)

505.41(p)(5)

#### UNCERTAINTIES OF ESTIMATES:

While none of the costs can be specifically defined, as stated above the various proposed amendments will either have no cost or will reduce costs to permittees.

The cost to the Department for review of requests for waivers and reduction of monitoring is quite uncertain. Staff cannot determine how frequently permittees will choose to prepare and submit requests. However, as monitoring is a significant cost, numerous waiver requests seem likely.

# EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There is not expected to be any effect on the environment or public health from the changes resulting from these amendments. Rather, the amendments are expected to contribute to improved efficiency in regulating the pretreatment of wastewater discharged by industrial users into publicly owned treatment works (POTW).

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

There is not expected to be any adverse effect on the environment or public health if these amendments are not approved. However, unnecessary costs for monitoring and reporting would continue to accrue for both industrial users and POTW if these amendments are not approved.

#### **Statement of Rationale:**

Those sections of these amendments to South Carolina Regulation 61-9, Water Pollution Control Permits, relating to operational matters are taken directly from the United States Environmental Protection Agency regulation promulgated in the Federal Register October 14, 2005 at 70 FR 60134. These matters relate to industries which discharge industrial wastewater to publicly owned treatment works (POTW) and to the POTW which receive such wastewater and regulate the industrial discharges.

Certain parts of the Federal regulation are more stringent than the present South Carolina regulation, and all of these are adopted in this amendment. Adoption of these is required by Federal regulation for South Carolina to maintain a discharge permit (NPDES) program in lieu of United States Environmental Protection Agency permitting.

Others of the Federal changes are less stringent than South Carolina regulation, and South Carolina is not required to adopt these. However, these changes make complying with pretreatment regulations more efficient, and the Department has chosen to also adopt these changes. The Department has revised these changes in some cases to allow review by the Department of requests by permittees for reduction of monitoring or reporting.

The remaining changes are administrative and consist of two categories of changes:

1. Addition of references to revised requirements for appeals of permits and orders of the Department. These revisions were stated in South Carolina Act 387 of 2006; and

2. Clerical corrections to the existing regulation.

#### Text:

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

### Document No.3143 **COMMISSION ON HIGHER EDUCATION** CHAPTER 62 Statutory Authority: 1976 Code Section 59-111-330

## 62-1100. Free Tuition for Residents Sixty Years of Age

### **Preamble:**

Public colleges or universities are authorized to permit legal residents of South Carolina who have attained the age of sixty to attend classes for credit or noncredit on a space-available basis without the required payment of tuition. The proposed regulation provides definitions institutions may use to ensure consistent application of the provisions of this article and establishes guidelines for institutional processing of inquiries and appeals.

# Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit comments to Mr. Gary Glenn, Associate Director of Finance, Facilities, & MIS; S.C. Commission on Higher Education, 1333 Main St., Suite 200, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on October 29, 2007. If required, a public hearing will be held on November 2, 2007 at 11:00 a.m. at Francis Marion University in the Lee Nursing Building.

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

The Commission on Higher Education estimates the costs incurred by the State and its political subdivisions in complying with the proposed regulation will be approximately \$0.00.

#### Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Free Tuition for Residents Sixty Years of Age

Purpose: To provide definitions institutions may use to ensure consistent application of the provisions of this article and establish guidelines for institutional processing of inquiries and appeals.

Legal Authority: 1976 Code Section 59-111-330

Plan for Implementation: This regulation will be implemented upon concurrence by the General Assembly.

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

Inasmuch as institutions are authorized but not required to waive tuition costs for residents over sixty years of age, this regulation clarifies the flexibility provided under the statute and ensures that those who choose to offer the waiver do so in a manner that provides consistency to eligible constituents interested in enrolling in the state's public institutions. The hours generated by these individuals are not considered in the higher education funding formula and do not, therefore, constitute a cost to the state.

# DETERMINATION OF COSTS AND BENEFITS:

Individuals who take courses under the provisions of the statute are limited only by academic and physical space availability at the institutions choosing to participate in this tuition waiver. All general and course specific fees are still assessed as well as the costs of books or other materials or supplies.

# UNCERTAINTIES OF ESTIMATES:

None

# EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None

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

None

# **Statement of Rationale:**

This regulation provides definitions institutions may use to ensure consistent application of the provisions of this article and establishes guidelines for institutional processing of inquiries and appeals.

Text:

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

#### Document No.3148 DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: Military Personnel Financial Services Protection Act of 2006, 10 U.S.C. § 992 *et seq.*, S.C. Code Ann. Sections 1-23-110 *et seq.*, 38-3-110 and 38-57-10 *et seq.* 

R 69-65. Military Sales Practices

# Preamble:

The South Carolina Department of Insurance proposes to promulgate a regulation that addresses the solicitation or sale of life insurance and annuity products to active duty members of the United States Armed Services. The regulation addresses the conduct of insurers and insurance producers both on and off of a military installation and designates certain practices by insurers or insurance producers as false, misleading, deceptive or unfair.

This regulation is based upon a model regulation developed by the National Association of Insurance Commissioners pursuant to the Congressional mandate set forth in the Military Personnel Financial Services Protection Act, Pub. L. No. 109-290 (2006). The federal Act required the states to work collectively with the Secretary of Defense to implement appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation. The Act also required the creation of standards for products specifically designed to meet the particular needs of members of the Armed forces.

The proposed regulation does not require Legislative Review.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on July 27, 2007.

## Section-by-Section Discussion

- Section 1. Sets forth the purpose of the regulation.
- Section 2. Sets forth the scope of the regulation.
- Section 3. Provides the statutory authority for the regulation.
- Section 4. Sets forth the exemptions to the regulation.
- Section 5. Provides definitions of terms used in the regulation.
- Section 6. Identifies which sales practices when committed on a military installation by an insurer or an insurance producer with respect to the in-person, face-to-face solicitation of life insurance are declared to be false misleading, deceptive or unfair.
- Section 7. Identifies which acts or practices by an insurer or insurance producer constitute corrupt practices, improper influences or inducements and are declared to be false, misleading, deceptive or unfair regardless of location.
- Section 8. Provides that the provisions of the regulation are severable.
- Section 9. Sets forth the effective date of the regulation.

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

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted on Thursday November 29, 2007 at 2:00 pm at the Administrative Law Court Division, 1205 Pendleton Street Suite 224, Columbia, South Carolina 29201. Written comments and hearing requests may be directed to Rachel Chaplin, South Carolina Department of Insurance, P.O. Box 100105, Columbia, South Carolina 29202-3105, no later than 5:00 pm Wednesday October 31, 2007.

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

There will be no increased costs to the state or its political subdivisions.

#### Statement of Need and Reasonableness:

# DESCRIPTION OF REGULATION: Military Sales Practices

Purpose: To promulgate a regulation in compliance with the federal Military Personnel Financial Services Protection Act, Pub. L. No 109-290 (2006). The proposed regulation sets forth standards to protect active duty service members of the United States Armed Forces from dishonest and predatory insurance sales practices by declaring certain practices to be false, misleading, deceptive or unfair.

Legal Authority: Military Personnel Financial Services Protection Act of 2006, 10 U.S.C. § 992 *et seq.*, S.C. Code Ann. Sections 1-23-110 *et seq.*, 38-3-110 and 38-57-10 *et seq.* 

Plan for Implementation: The proposed regulation will take effect upon publication in the *South Carolina State Register*. Legislative review is not required.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: The Military Personnel Financial Services Protection Act of 2006 requires states to work collectively with the Secretary of Defense to implement appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on military installation. Promulgation of this regulation is necessary to bring the state into compliance with the federal Act.

DETERMINATION OF COSTS AND BENEFITS: There will be no additional costs to the state or its political subdivisions. This proposed regulation will benefit our state by ensuring the protection of our military personnel against abusive insurance sales practices. As of May 2007, 32,722 active military personnel were located in South Carolina.

UNCERTAINTIES OF ESTIMATES: None.

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

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

### **Statement of Rationale:**

The proposed regulation is based on a model regulation developed by the National Association of Insurance Commissioners (NAIC) pursuant to the Congressional mandate announced in the Military Personnel Financial Services Protection Act of 2006. The federal Act clearly provides that the states shall work collectively to implement appropriate standards to protect the members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation. The Act also provides that each state shall report to Congress by September 29, 2007 on the progress made regarding the adoption of the standards collectively developed. Congress also called on the NAIC to report to it on "ways of improving the quality of and sale of life insurance products. . .by creating standards for products specifically designed to meet the particular needs of members of the Armed Forces." The proposed regulation will meet these Congressional mandates.

#### Text:

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

# Document No.3147 DEPARTMENT OF INSURANCE CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-110 et seq., 38-3-110 and 38-73-1095.

# R.69-66. Premium Discounts for Property Insurance

# Preamble:

Pursuant to S.C. Code Ann. Section 38-73-1095(C) the South Carolina Department of Insurance proposes to promulgate a regulation regarding premium discounts and credits for residential and commercial property insurance.

The Omnibus Coastal Property Insurance Reform Act of 2007 amended S.C. Code Ann. Section 38-73-1095(C) to require that rating plans for essential property insurance in the coastal and seacoast areas include discounts and credits or surcharges and debits for certain rating factors including, but not limited to, the use of storm shutters, use of roof tie downs, flood insurance and elevation. The statute also provides that the Department of Insurance may promulgate a regulation to define how the implementation of these rating factors qualify for credits and discounts and what evidence the policyholder must present to obtain the credit or discount.

The proposed regulation will require legislative review.

A Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on June 22, 2007.

#### Section-by-Section Discussion

Section 1.	Sets forth the definitions of terms used in the regulation.
Section 2.	Provides applicability regulation
Section 3.	Sets forth guidelines for rating factors upon which credits, discounts, and other rate differentials shall be calculated.
Section 4.	Sets forth the method of calculating discounts, credits or other rate differentials for purposes of Section 38-73-1095(C).
Section 5.	Premium Credits.
Section 6.	Filing requirements.
Section 7.	Sets forth the evidence and proof policyholders and applicants must present to obtain credits and discounts.

# Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted on Tuesday, December 4, 2007 at 11:00 am at the Administrative Law Court Division, 1205 Pendleton Street Suite 224, Columbia, South Carolina 29201. Written comments and hearing requests may be directed to Gwendolyn Fuller McGriff, South Carolina Department of Insurance, P.O. Box 100105, Columbia, South Carolina 29202-3105, no later than 5:00 pm Wednesday October 31, 2007.

# **Preliminary Fiscal Impact Statement:**

There will be no increased costs to the state or its political subdivisions.

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

DESCRIPTION OF REGULATION: Premium Discounts for Property Insurance

Purpose: The proposed regulation defines how certain rating factors shall qualify for property insurance premium credits and discounts and what evidence the policyholder must present to obtain the credit or discount.

Legal Authority: S.C. Code Sections 1-23-110 et seq., 38-3-110 and 38-73-1095.

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

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS: On June 11, 2007 the Omnibus Coastal Property Insurance Reform Act of 2007 was enacted into law. The Act amended Section 38-73-1095 to require that rating plans for essential property insurance include discounts and credits or surcharges and debits based upon the factors set forth in the statute. Section 38-73-1095 further provides the Department of Insurance with the authority to define by regulation how these factors qualify for discounts and credits and the evidence that the policyholder or applicant shall present to obtain the credit or discount. This provision applies to policies issued or renewed after December 31, 2007.

The proposed regulation is needed to provide guidance to both policyholders and insurers on how certain rating factors will qualify for premium discounts and credits, the method for calculating discounts and credits, and what evidence and proof a policyholder shall present to obtain credits or discounts.

DETERMINATION OF COSTS AND BENEFITS: Promulgation of this regulation will not result in additional costs to the state or its political subdivisions. It is believed that the proposed regulation will benefit our state by encouraging policyholders to make their homes or businesses more resistant to hurricane damage. It will also benefit our state by reducing the cost of premiums paid by property owners.

UNCERTAINTIES OF ESTIMATES: None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH: This regulation encourages residential and commercial property policyholders to make their home or business more resistant to hurricane damage which is vital to reducing the potential loss of property and lives in South Carolina.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED: There may be a detrimental effect on the environment and public health if this regulation is not implemented. Promulgation of this regulation is crucial to ensuring that South Carolina consumers benefit from the reforms set forth in the Omnibus Coastal Property Insurance Reform Act of 2007.

# **Statement of Rationale:**

This proposed regulation is a part of a comprehensive initiative to address the property insurance issues in South Carolina. A healthy insurance marketplace is imperative to the well-being of our state's economy. Significant hurricane losses by the insurance industry and predictions for above-average hurricane frequency and severity have contributed to the decline of the property insurance market in South Carolina.

# Text:

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

# Document No.3141 **DEPARTMENT OF NATURAL RESOURCES** CHAPTER 123 Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210.

R.123.40. Wildlife Management Area Regulations

# Preamble:

The South Carolina Department of Natural Resources is proposing to amend the existing regulations that set seasons, bag limits and methods of hunting and taking of wildlife. The following is a section by section summary of the proposed changes and additions:

(A) Game Zone 1 – sets small game seasons on the Long Creek Tracts, Oconee County.

(B) Game Zone 2 – allows use of individual antlerless deer tags in Game Zone 2.

(C) Crackerneck WMA - adds additional hunting days for raccoon, opossum and small game; adds

protection for amphibians and reptiles according to Dept. of Energy cooperative agreement.

(G) Francis Marion National Forest – allows the use of individual antlerless deer tags and establishes a tagging procedure for does except for county-wide either-sex days.

Hellhole WMA – deletes hog hunts with dogs.

Waterhorn WMA – changes the season for hunting hogs with dogs.

Wambaw WMA – establishes a season for hunting hogs with dogs.

(H) Moultrie – Hall WMA – establishes a small game season. Bluefield and Cross Station regulations refiled without change to establish youth hunt requirements under the new authority.

(J) Webb WMA – establishes an open quail season and increases the seasons for hog hunting with and without dogs.

(P) Pee Dee Station Site WMA – requires hunters to sign in and out at the check point.

(Q) Aiken Gopher Tortoise WMA – allows hog harvest during deer hunts and establishes raccoon and opossum seasons.

(R) Santee Coastal Reserve – adds hog check requirement.

(S) Other Small WMAs – includes Dillon County with other Game Zone 4 counties and increases the deer hunting season 2 weeks.

(U) Manchester State Forest WMA – deletes special hog hunts and adds additional property for quail hunting.

(X) Hamilton Ridge WMA – adds 1 week of archery deer hunting and adds additional hog hunts.

(DD) Palachucola WMA - establishes an open quail season and increases the seasons for hog hunting with and without dogs.

(HH) Canal WMA – re-files existing regs to establish check and reporting requirements under new authority.

(OO) Santee Dam WMA – adds 2 months archery and muzzleloader deer hunts.

(QQ) Oak Lea WMA - establishes special quail hunts. Re-files existing checking and reporting requirements.

(SS) Edisto WMA - defines small game season.

(TT) Stumphouse – establishes Stumphouse as a youth/adult hunting area.

(VV) Bonneau Ferry WMA – establishes hunter entry times for designated hunts, clarifies the deer limits

for all hunts and establishes a data requirement for quail hunters during special draw hunts.

(WW) Ditch Pond - establishes deer and small game seasons for new WMA.

(XX) Henderson – establishes deer seasons for a new WMA.

2.8 includes all WMA for this regulation under new authority.

2.10 includes all WMA for this regulation under new authority.

2.11 includes all WMA for this regulation under new authority.

2.13 establishes restrictions on habitat damage on WMAs.

3.1 adds additional caliber rimfire rifles.

3.2 expands the definition of primitive weapons to include new technology.

3.4 includes all WMA for this regulation under new authority.

3.5 includes all WMA for this regulation under new authority.

3.6 includes all WMA for this regulation under new authority.

4.1 includes all WMA for this regulation under new authority.

5.5 clarifies bear season and use of dogs.

6.2 includes all WMA for this regulation under new authority.

6.3 includes all WMA for this regulation under new authority.

7.1 includes all WMA for this regulation under new authority.

8.1 includes all WMA for this regulation under new authority.

10.9 adds a non-hunting access restriction to reduce disturbance to waterfowl

10.10 defines the Mathews Canal at Bear Island WMA.

10.11 re-files existing special access restrictions.

10.12 re-files existing special access restrictions.

10.16 adds new waterfowl area and corrects spelling of Sampson Island.

10.19 re-files existing special access restrictions.

10.20 applies existing waterfowl regulations to all Cat. I and II waterfowl areas.

10.21 establishes data requirements for four Category II waterfowl areas.

123-51 establishes a self-check requirement for turkey hunting on Webb, Palachucola and Hamilton Ridge WMAs, clarifies the Woodbury turkey season and establishes a turkey season and limit for Aiken Gopher Tortoise HP WMA.

123-52 expands the definition of primitive weapons to include new technology for private lands in Game Zones 1 & 2.

# Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at 1000 Assembly Street on November 16, 2007, at 10:00 am in room 335, third floor, Rembert C. Dennis Building. Written comments may be directed to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

# Preliminary Fiscal Impact Statement:

This amendment of Regulations 123-40, 123-51 and 123-52 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.

# Statement of Rationale:

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provides guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.

# Statement of Need and Reasonableness:

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

# 1. DESCRIPTION OF THE REGULATION:

Purpose: These regulations amend Chapter 123-40, 123-51 and 123-52 in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas.

Legal Authority: Under Sections 50-11-2200 and 50-11-2210 of the S.C. Code of Laws, the Department of Natural Resources has jurisdiction over all Wildlife Management Areas to establish open and closed seasons, bag limits, and methods of taking wildlife; special use restrictions related to hunting and methods for taking wildlife on Department-owned Wildlife Management Areas.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations in the annual Rules and Regulations Brochure. The public will be notified through this publication and through news releases and other Department media outlets and publications.

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

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.

# 3. DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the sporting community. There are no significant new costs imposed by the addition of new WMAs since the funding of leasing WMAs is provided through the existing WMA permit program. Clarification of existing regulations under appropriate authority will improve enforcement ability and therefore reduce staff time in handling prosecution of offenses. This amendment of Regulations 123-40, 123-51 and 123-52 will result in increased public hunting opportunities that 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.

### 4. UNCERTAINTIES OF ESTIMATES:

Staff does not anticipate any increased costs with the promulgation of this regulation. Accordingly, no costs estimates and the uncertainties associated with them are provided.

## 5. EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health. Environmental impacts will be positive since the proposed regulation will result in additional opportunity for outdoor recreation for South Carolina's sportsmen therefore and increased awareness and commitment for natural resources.

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

No detrimental impact on public health or the environment will occur if this proposed regulation is not implemented. Failure to implement this regulation will prevent positive benefits to public.

#### **Summary of Preliminary Assessment Report:**

The proposed regulation does not require an assessment report.

#### Text:

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

# 62 EMERGENCY REGULATIONS

#### Filed: August 30, 2007 8:51 am

# Document No.3142 **DEPARTMENT OF NATURAL RESOURCES** CHAPTER 123 Statutory Authority: 50-1-200; 50-1-220; 50-11-10; 50-11-2200

#### **Emergency Situation:**

These emergency regulations establish the dove seasons and dove limits statewide and establish seasons, limits and special restrictions for dove hunting on Dove Management Areas. Because the dove season begins September 1 it is necessary to file these regulations as emergency.

#### Text:

#### WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2007-08

Dove Management Area Regulations: The following fields are open on a first-come basis, unless otherwise stated below. The number of hunters may be restricted on some fields. A Wildlife Management Area permit is required for all fields. Fields are open only as shown below. Please consider the other hunters as well as the landowners whose cooperation makes these fields possible. Signs will be placed along roads directing hunters to the fields. All federal and state laws apply. Fields are open only on days and times indicated. Fields denoted by an asterisk (\*) require hunters to sign in (not before 12:00 noon) and sign out on ALL hunts. No species other than mourning doves and Eurasian collared doves may be hunted during scheduled dove hunts. Please remove all litter, including spent shell hulls, from fields when leaving! Migratory bird permit required.

Season Dates:	September 1 - October 6 (Sept 1-3 Afternoons only): November 17 - November 24:
	December 21 - January 15

Bag Limit: Mourning Doves: 12 doves per day. No limit on Eurasian collared doves.

The following special regulations apply to all Wildlife Management Area Public Dove Fields: Hunters are limited to 50 shells per hunt. No entry onto fields before 12:00 noon. No shooting after 6:00 p.m. during the first segment of the season (September 1 - October 6)

#### ABBEVILLE

U.S. Forest Service, Parson Mountain WMA

5 mi. east of Abbeville on SC-72, <sup>1</sup>/<sub>4</sub> mile south on Bass Rd., 40 acres. Special Youth Hunt on Sept. 1 (see Youth Hunt List for details).

1<sup>st</sup> season – Saturdays Only beginning Sept. 15, Afternoons only. 2<sup>nd</sup> and 3<sup>rd</sup> season – Open Mon – Sat

#### AIKEN

US Dept of Energy, Crackerneck WMA

From SC 125/CR62 (Silverton Rd) in Jackson, take Silverton 0.4 mi. to Main St., left on Main for 0.4 mi., then right on Brown Rd. for 2.1 mi. Turn left on gravel road, at end of pavement go 0.2 mi. to check station, 40 acres.

1<sup>st</sup> season – Sept. 5 & 19; Oct. 3. Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> season – Fridays, Saturdays & Thanksgiving Day ONLY.

#### ANDERSON

Evans Property

US 178 at Lebanon, 25 acres Opening day participants selected by drawing. Apply by Aug 17 at Clemson DNR office. Anderson . Saturdays Only, Afternoons Only, Dove Hunting Only.

# **ANDERSON**

Clemson University - Fant's Grove WMA

From US 76/ SC 28 south of Clemson Take SC 187 to Fant's Grove Rd. 1.5 miles W, 45 acres Open 1<sup>st</sup>. 2<sup>nd</sup> & 3<sup>rd</sup> seasons. Saturdays Only, Afternoons Only. (\*Note: Field will be closed Oct. 6). Dove Hunting Only

# \*BERKELEY

U.S. Army Corps of Engineers - Canal WMA (Above Powerhouse) From St. Stephen Take SC 45 west for 1.5 miles or continue to County Rd 35. Go Left about .3 miles, 60 acres Sept 1, 15, 29; Nov. 17; Afternoons Only. Dove & Pigeon Hunting Only.

# \*BERKELEY

U.S. Army Corps of Engineers - Canal WMA (Below Powerhouse) From St. Stephen Take SC 45 E for 2.5 miles Turn Left on Paved Road, 40 acres Sept 1, 15, 29; Nov. 17; Afternoons Only. Dove & Pigeon Hunting Only.

# CHEROKEE

Gaffney Board of Public Works Take I-85 to Gaffney Exit 95, 1.2 mi. N on SR82, near Lake Whelchel, field on west side of road only, 20 acres

Saturdays Only, Afternoons Only. Dove Hunting Only

# CHESTER

U.S. Forest Service - Worthy Bottoms

10 miles west of Chester on SC 9, Left on Sec Rd 535, Turn Right on Worthy=s Ferry Rd. 30 acres 1st season - Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon - Sat Afternoons Only

# **CHESTERFIELD**

**Taylor Property** 1.8 miles north of McBee on US 1, Left on SC 145 for 11.8 miles, Right on Sec Rd 29 for .6 miles, 40 acres Saturdays Only, Afternoons Only. Dove Hunting Only.

# CHESTERFIELD

DNR - McBee Tract 4 miles west of McBee on US 1, Left (South) on Sec Rd 296 for about 2 miles, Field on Left, 20 acres Planted. 1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon – Sat Afternoons Only.

# **CHESTERFIELD**

SC Forestry Commission - Sand Hills State Forest Wilkes Chapel Field From Sand Hills Forest Headquarters on US 1, Go south on truck trail 141 for 1.3 miles, Right on Sec Rd 29 for .2 miles, Field on Right, 54 acres 1st season – Saturdays Only, Afternoons Only, 2nd & 3rd seasons - Open Mon – Sat Afternoons Only

# CHESTERFIELD

SC Forestry Commission - Sand Hills State Forest Davis Field From the intersection of US 1 and SC 102 in Patrick: Go southeast on SC 102 approx. 1 mi. Bear left on SR 80 and proceed approx. 1.5 mi. Left on Campbell Lake Rd. Continue 0.2 mi. then left on Griggs Loop Rd. Field entrance 0.1 mi. on the right. 30 acres.

1<sup>st</sup> season – Wednesdays only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat., Afternoons Only

# 64 EMERGENCY REGULATIONS

## \*CLARENDON

Santee Cooper - Santee Dam WMA From the south end of SC 260 follow gravel road at Base of dam for approx. 5 mi., 137 acres. Sept. 1, 15, 29; Nov. 24, Jan. 5. Afternoons Only. Dove Hunting Only

### \*CLARENDON

SC Forestry Commission Oak Lea WMA. From Summerton take SC 26 west for 2 mi. Go north on SC 41 for approx 5 mi. Field on right. 135 ac. Sept. 1, 15, 29; Nov. 24, Jan. 5. Afternoons Only. Dove Hunting Only

**\*COLLETON** DNR - Bear Island WMA About 17 miles southeast of Green Pond on Sec Rd 26, 100 acres – Sept 5 & 19; Nov 24. Afternoons only

### **\*COLLETON**

DNR - Donnelley WMA From US 17 E of Green Pond, Go southeast on Sec Rd 26 4 miles, Turn Right at Donnelley WMA Sign, Field 2 miles on Right, 100 acres Sept 5 & 19; Nov 24; Dec 22; Jan. 2 & 9 Afternoons only. On site lottery for 120 hunters on Sept. 5.

### DARLINGTON

DeWitt Property From I-20 (Exit 137) go South on SC 340 (towards Timmonsville) 2.1 miles to Meander Rd. Right on Meander. Go 1.7 miles to Lake Swamp Rd. Right on Lake Swamp Rd. Go 0.5 miles to Oak Stump Rd. Bear left on Oak Stump. Field 1 mile on left. 50 acres. Wed. Afternoons Only, Dove Hunting Only

# EDGEFIELD/ MCCORMICK

U.S. Forest Service - Forks WMA 1 mile east of SC 28 on Sec Rd 112 near Furey's Ferry, 22 acres - 1st season - Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon-Sat.

#### FAIRFIELD

Crescent Resources LLC From Ridgeway take US21 N for 9.0 mi., turn right on S-20-101 (River Rd), go 10.8 mi. to 2<sup>nd</sup> Rockbridge Rd S-20-291 turn left for 0.8 mi, to Island Rd, turn right 0.5 mi, to field – 25 acres Saturdays Only – Afternoons Only - Dove Hunting Only

## **GEORGETOWN**

**DNR Samworth WMA** 15 miles north of Georgetown off US 701, Follow Signs, 60 acres Saturdays, Afternoons Only, Dove Hunting Only

#### \*HAMPTON

DNR - Webb Wildlife Center 3 miles west of Garnett on Augusta Stage Coach Rd., 35 acres - Sept 5, 19, & 29; Nov. 21, Dec. 22, Jan 12 Afternoons Only.

### HORRY

DNR - Waccamaw River Heritage Preserve, Schultz Tract, From Stephens Crossroads on SC 9, Turn north on Sec Rd 57 & Proceed 2.2 miles, Left on Sec Rd 111 & Proceed 2 miles, Left on Oscar Rd., Bear Left & Then Right to Field Entrance, 32 acres

Saturdays only, Afternoons only

# LAURENS

# DNR - Gray Court Tract

8 miles north of Laurens on SC 14, Right on tar & gravel road for .2 miles, Right on dirt road for .1 mile, 12 acres - 1st season – Saturdays Only, Afternoons Only - 2nd & 3rd seasons - Open Mon – Sat Afternoons Only

# LEE

Atkinson Property

From 1-20, Go 2.7 miles southeast on SC 341 to Wisacky, Go 0.9 miles west on Cooper=s Mill Rd. To Mt. Zion AME Church. Go 3.7 miles south on Dog Island Rd. Field on both sides of road. From US 401, Go 1.1 miles northwest on Dog Island Rd., 70 acres.

Wednesday Afternoons only. Dove Hunting Only.

# LEXINGTON

Hallman Field

From I-20 take 178 south for 2.5 miles toTruex Rd. take left 0.5 miles to Tom Adams Rd. take right, to 0.9 miles to stop sign, turn left on Rish Rd., go 0.3 miles to parking area. 45 acres Saturdays Only, Afternoons Only – Dove Hunting Only

# MARLBORO

DNR - Lake Wallace WMA northwest of Lake Wallace on Sec Rd 47 Bennettsville, Beauty Spot Rd., 50 acres Saturdays, Afternoons Only. Dove Hunting Only

# MCCORMICK

U.S. Army Corps of Engineers - Clarks Hill WMA Waterfowl Area, 2.5 mi. south of Bordeaux on Sec. Rd. 110, 40 acres. Sept. 1 & 19; Nov. 21, Jan 9 only, Afternoons Only

# MCCORMICK

US Army Corps of Engineers – Key Bridge WMA 0.25 mile north of Parksville on SC-28, 22 acres. 1<sup>st</sup> season – Saturdays Only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon.- Sat

# MCCORMICK

U.S. Forest Service – Key Bridge WMA – Cunningham Fields – 5 mi. E of Plum Branch on SC 283, 1 mi. south on Forest Service Rd 688, 40 acres 1<sup>st</sup> season – Saturdays Only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon-Sat

# MCCORMICK

U.S. Army Corps of Engineers - Key Bridge WMA2 miles west of Plum Branch on Sec Rd 57, 30 acres1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons - Open Mon-Sat.

# NEWBERRY

SCDOT McCullough Field From I-26 North on Hwy 121 towards Whitmire 9.2 mi. Right on McCullough Rd., 0.7 mi. Field on right. Saturdays Only Beginning Sept 8, Afternoons Only, Dove Hunting Only

S.C. Forestry Commission - Piedmont Forestry Center From SC 130 north of Salem Turn Left on SC 11 & follow signs to nursery, 18 acres Saturdays Only, Afternoons Only. Dove hunting only. 3rd season – Closed.

# OCONEE

U.S. Forest Service - Ross Mtn. Field About 7 miles north of Walhalla on SC 28, Turn on Tunneltown Rd., Turn on Ross Mtn. Rd, Field on Both Sides of road, 35 acres 1<sup>st</sup> Season, Saturdays - Afternoons Only, Beginning Sept 8. Open 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Saturday Afternoons Only

#### \*\*ORANGEBURG

Santee Cooper - Santee Cooper WMA .5 miles northeast of Eutaw Springs, 50 acres Entire WMA under Dove Area Regulations. Sept 15 & 29; Nov. 24, Jan 5. Afternoons Only. Dove Hunting Only.

# PICKENS

DNR Property South of Pickens off Sec Rd 304 near SC Highway Dept. Bldg., 40 acres Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons. Saturdays Only, Afternoons Only. Dove Hunting Only

# PICKENS

Clemson University - Gravely WMA - Causey Tract From SC 11 Go south on Sec Rd 112 at Cendy's Store, Turn east on Sec Rd 114 & Go 0.5 miles; 25 acres Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons. Saturdays Only, Afternoons Only. Dove Hunting Only

PICKENS

Porter Field 183 from Pickens, Go 5 miles to Mtn. View Church Rd. Right 1/10 miles, Field on Right Saturdays - Afternoons Only, Beginning Sept. 8. 3<sup>rd</sup> Season – Closed. Dove Hunting Only

# SALUDA

S.C. Electric and Gas, Murray WMA 12 mi. N of Saluda on SC-121, 1 mi. E on Tostie Creek Rd., 40 acres. Saturdays Only. Afternoons Only

# SPARTANBURG

Santee Cooper From intersection of US 176 & West Main St. (Sec. Rd. 227) approx. 2.5 miles W. of Pacolet, go 0.1 mile east on West Main St. and turn left on Goldmine Rd. (Sec. Rd. 108) for 4.3 miles then turn right on Hatchet Dr. Field at end of road. 15 acres. 1<sup>st</sup> season - Saturdays only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat., Afternoons Only

#### SPARTANBURG

Spartanburg Co Parks & Recreation Dept. – Inman Tract 3.5 mi. northwest of Inman on New Cut Rd. (Sec. Hwy 52). Field is on left (west) side of the road. 20 acres. Saturdays Only, Afternoons Only, Dove Hunting Only. S.C. Forestry Commission - Manchester State Forest

Directions from Wedgefield

Bland Field 1 – Take Hwy 261 North 0.7 mi. to Bland entrance sign, turn right and follow dirt road to field. 50 ac. Sept. 1 is Youth Hunt Only

Bland Field 2 – Take SC 763 (Wedgefield Rd) 1.8 mi. then left on Knott Rd & follow dirt road 0.4 mi. to field. 50 acres

Bird Haven Field – Takes SC 763 (Wedgefield Rd) 4 mi. to stop sign. Left on St. Paul Ch. Rd., go 1 mi. to field on right. 25 acres

Tuomey Field – Take SC 763 (Wedgefield Rd) 4 mi. to stop sign. Right on St. Paul Ch. Rd., go 3.2 mi. to field on left. 50 acres

Brunson Field – Take SC 763 (Wedgefield Rd) 4 mi. to stop sign. Right on St. Paul Ch. Rd., go 3.7 mi. then right on Rt. 120; go 1.3 mi.; right on Starkes Ferry Rd.; go 1.6 mi. then left on dirt road; go 0.3 mi. to field on left. 15 acres

Mary Williams Field – Take Hwy 261 South 3.3 mi.; left on Bells Mill Rd., go 0.5 mi. to field on left. 20 acres

1st season - Sat Afternoons Only (Designated Fields). 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

# UNION

DNR Thurmond Tract

4.3 miles North on SC9 from the intersection of SC 9 and SC 49 at Lockhart. Field is on left. 15 acres.

1<sup>st</sup> season – Saturdays Only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon – Sat. Afternoons Only.

# UNION

U.S. Forest Service

3 miles E of Cross Keys on Sec Rd 18 at Intersection of Sec Rd 80 near Sedalia, 15 acres

1st season – Saturdays – Afternoons Only, Beginning Sept. 8. 2nd & 3rd seasons - Open Mon - Sat. Afternoons Only.

# YORK

DNR - Draper Tract

3.5 miles É of McConnell on SC 322, Turn Right on Sec Rd 165, Go .5 miles, Turn Right, Two 30 acres Fields.

1st season – Saturdays Only, Afternoons Only. 2nd & 3rd seasons Open Mon - Sat. Afternoons Only. Opening day participants selected by drawing. Apply in writing by Aug 17 to DNR, 124 Wildlife Dr, Union, SC 29379. Limited space available.

# YORK

York County – Worth Mountain WMA

From Hickory Grove at the intersection of SC Hwy 97 and SC Hwy 211, take Hwy 211 South approx. 4 miles and turn left on Scenic View Rd, go .75 miles and field is on right. 40 acres planted.

1<sup>st</sup> season – Saturdays only, Afternoons only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons Open Mon-Sat, Afternoons Only

# SPECIAL YOUTH DOVE HUNTS:

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 17 years of age or younger. The following regulations also apply on Special Youth Dove Hunts: (1) Adults may actively participate in hunting, but adults may not shoot while accompanying youths are shooting. Adult's gun must be unloaded when accompanying youth is shooting; youths' guns must be unloaded when adult is shooting. (2) Bag limit is 12 birds per youth participant. Birds harvested by adult hunters will count towards this bag limit. Birds harvested by individual hunters must be kept separate, and in no instance may an individual hunter harvest more than 12 birds.

ABBEVILLE YOUTH HUNT U.S. Forest Service – Parson Mountain WMA Sept. 1. Participants selected by drawing.

NEWBERRY YOUTH HUNT SCDOT – McCullough Field Sept. 1 Limited Space Available OCONEE YOUTH HUNT U.S. Forest Service, Ross Mtn. Field Sept. 1 Participants selected by drawing.

\*ORANGEBURG YOUTH HUNT Santee Cooper – Santee Cooper WMA 0.5 mi. northeast of Eutaw Springs, 70 acres Sept. 1 No pre-registration required

PICKENS YOUTH HUNT Porter Field -- Sept 1 Participants selected by drawing.

SUMTER YOUTH HUNT Manchester State Forest near Wedgefield Bland Tract – Field 1. Sept. 1

UNION YOUTH HUNT U.S. Forest Service near Sedalia Sept. 1 Participants selected by drawing

YORK YOUTH HUNT DNR Draper WMA Sept. 1 Participants selected by drawing

# Statement of Need and Reasonableness:

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 new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and season dates change as allowed by Federal Regulation it is necessary to file Dove Field regulations annually. Because these hunts begin on September 2, it is necessary to file these regulations as emergency so they take effect immediately.

# **Fiscal Impact Statement:**

This amendment of Regulation 123.40 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.

Filed: August 30, 2007 8:52 am

#### Document No.3144 DEPARTMENT OF NATURAL RESOURCES CHAPTER 123

Statutory Authority: 1976 Code Section 50-1-220, 50-11-2200 and 50-11-2210

#### **Emergency Situation:**

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to allow a special deer herd reduction hunt on Croft State Natural Area. Because the hunts begin on September 19 it is necessary to file these regulations as emergency so they take effect immediately.

#### Text:

123-40 Hunt Units and Wildlife Management Area Regulations

1.2 (X) Croft State Natural Area WMA

Archery Only Deer Hunts	September 19-20	3 Deer Per Day, either-sex Max. 1 antlered buck per day
Archery-Crossbow Deer Hunts	October 3-4 October 17-18 November 7-8	3 Deer Per Day, either-sex Max.1 antlered buck per day

Hunt Procedure/ Special Rules and Regulations

1. All hunters are required to check-in and obtain a daily permit at the checkpoint at the Maintenance Shop near the main gate on or prior to each day of the hunt period. The checkpoint will be open on the day of the hunt approximately 2 hours before official sunrise and the day before each hunt period from 3:00 pm to 8:00 pm.

2. All hunters must leave their hunt area immediately after dark and must report to the checkpoint to checkout no later than one hour after official sunset. Failure to checkout in a timely manner will result in a citation. Those persons needing to return to the hunt area to look for a wounded deer or to retrieve a dead deer must notify PRT or DNR personnel at that time.

3. Scouting is allowed during normal park hours and days prior to each hunt period. Daily admission fees apply, except days of applicant's hunt.

4. Parking is allowed only on park property inside the property boundaries and along roads inside the interior portion of the park. The daily hunt permit must be displayed on the dash of all vehicles parked on state park property. A parking area will be provided near the old ammo dump just off Dairy Ridge Road but parking is not allowed along Dairy Ridge Road. Do not park where a gate is being blocked. The bridge on Dairy Ridge Road is out and the check station cannot be accessed from S.C. Hwy 295.

5. Portable stands may be placed one day prior to your scheduled hunt and must be removed no later than one day following each hunt period. Screw-in steps must be removed and no permanent spikes or nails are allowed.

6. Only archery equipment will be permitted during the September hunt. Crossbows will not be allowed during the September hunt unless a person has an upper limb disability and has complied with all legal requirements (Section 50-11-565) to utilize a crossbow or persons 62 years old or older. Archery equipment or crossbows will be permitted during the October and November hunts. Hunters are allowed to carry only one type of equipment at a time.

7. Hunters must wear either a hat, coat or vest of international orange during all hunts except while occupying an elevated stand more than six feet above the surface level.

8. Hunters may use boats with electric trolling motors only to enhance hunter access. Running lights and all other safety equipment are required.

9. The use of a trail dog on a leash will be allowed for the recovery of wounded deer from 11:00 am to 3:00 pm and after dark. You must notify PRT or DNR before a dog is utilized.

- 10 Hunters will not be allowed to use ATV's.
- 11. Camping is available at Croft State Natural Area.
- 12. The daily bag limit is 3 deer per day including no more than one antlered buck.

13. Field dressing of deer is allowed in the woods but entrails should not be left closer than 200 yards from any road, trail or facility. Hunters should not attempt to dig in the ground to bury entrails because of safety concerns regarding buried ordnance (See safety requirements sheet). Field dressing of deer will not be allowed at the check station near the Maintenance Shop.

14. All harvested deer must be promptly brought to the deer check station at the Shop near the main gate.

15. Firearms or alcoholic beverages are not allowed within the park.

16. Hunters who harvest antlerless deer (including does and button bucks) will be pre-selected to attend the following year's hunt if one is conducted.

17. All State Parks, Recreation and Tourism (PRT) and all Wildlife Management Area (WMA) rules and regulations apply.

#### 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 a special deer herd reduction hunt on Croft State Park. Because the hunts begin on September 19 it is necessary to file these regulations as emergency so they take effect immediately.

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

This amendment of Regulation 123.40 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.

Filed: August 30, 2007, 8:51am

# Document No. 3145 DEPARTMENT OF NATURAL RESOURCES CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210.

# **Emergency Situation:**

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Numbers 123-40 and 123-52. These regulations set open and closed seasons, bag limits and methods of taking wildlife; define special use restrictions related to hunting and methods for taking wildlife on Wildlife Management Areas. Because the hunting seasons on many of these areas begin September 1 it is necessary to file these regulations as emergency.

**123-40.** Wildlife Management Area Regulations.

valid starting Oct. 1 however, daily

and season bag limits apply.

1.1 The following regulations amend South Carolina Department of Natural Resources regulation Numbers 123-40 and 123-52.

1.2. The regulations governing hunting including prescribed schedules and seasons, methods of hunting and taking wildlife, and bag limits for Wildlife Management Areas and special restrictions for use of WMA lands are as follows:

# (A) Game Zone 1

#### Chauga, Franklin L. Gravely and Caesar's Head WMAs

Small Game	No hunting before Sept. 1	Game Zone 1 bag limits.
	or after Mar. 1; otherwise.	
	Game Zone 1 seasons apply.	
	US Forest Service Long Creek Tracts,	
	Oconee County, small game only	
	between Thanksgiving Day and	
	March 1.	

Hogs and Coyotes

On each WMA property, feral hogs and coyotes may be taken during the open season for game. No hog hunting with dogs during the still gun hunts for deer or bear. Hog hunters must use small game weapons during small game-only season. During turkey season hogs may be taken using legal weapons for turkey only.

#### (B) Game Zone 2

# John C. Calhoun, Cokesbury, Clarks Hill, Parsons Mountain, Key Bridge, Forks, Ninety-six, Goldmine, Murray, Enoree, Fairforest, Keowee, Fant's Grove, Carlisle, Broad River, Dutchman, Wateree and Worth Mountain WMA's.

Still Gun Hunts (No dogs)	Oct. 11 through the Saturday after Thanksgiving; 3rd Monday after Thanksgiving through Jan. 1.	10 deer; 2 per day, buck ONLY for gun hunts except either-sex on days specified in Reg. 4.2. Limit of 10 must not include more than 5 bucks. Male fawns apply toward the buck limit.
		Archers are allowed to take either
		sex during entire period and tags are

#### Keowee WMA

No hunting is allowed in research and teaching areas of Keowee WMA (research and teaching areas are posted with white signs) except those special hunts for youth or mobility-impaired as conducted by the Department.

#### Fants Grove WMA

Quality Deer Management Area - bucks must have at least 4 points on one side or a minimum 12-inch antler spread. A point must be at least one inch long. During the Fant's Grove draw hunts for deer, all hunters must sign in at the Fant's Grove DNR checkpoint. Fant's Grove DNR check point will open 2 hours before official sunrise for deer hunts. Hunters are required to wear a hat, coat or vest of international orange while hunting deer.

#### (C) Crackerneck WMA and Ecological Reserve

All individuals must sign in and out at main gate. Scouting seasons (no weapons), will be Saturdays only during September and March. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct.,4:30am-8:30pm; Nov. - Dec., 4:30am-7:30pm. For special hog hunts in Jan, and Feb., gate will be open from 5:30am-7:00pm. Hog hunters are required to wear either a hat, coat or vest of international orange. Hogs may NOT be taken from Crackerneck alive and hogs must be shown at check station gate. Not more than 4 bay or catch dogs per party. On Saturday night raccoon hunts, raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. On Friday night raccoon hunts, raccoon hunters must cease hunting by 1 hour before official sunrise and exit the gate by official sunrise. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed. (re-file under new authority)

Raccoon & Opossum	3 <sup>rd</sup> Sat. night in Oct Jan. 1, Sat. nights only; 1 <sup>st</sup> Fri. night in Jan. to last Fri. or Sat. night in Feb., Fri. and Sat. nights only.	3 raccoons per party per night. No limit on Opossums.
Small Game (except no open season on bobcats, foxes, otters and fox squirrels).	3 <sup>rd</sup> Fri. in Oct last Fri. or Sat. in Feb. Fri., Sat. and Thanksgiving Day only.	Game Zone 3 bag Limits.

# (G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting Total of 8 deer for all gun and muzzleloader hunts on the from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used buckshot Francis Marion only is permitted. On either-sex deer hunts with dogs, all deer must be checked in by one hour after legal sunset. Hogs may only be taken during deer hunts and special hog hunts. On all still gun and muzzleloader either-sex hunts for all units, all does must be tagged with an individual antlerless deer tag except when harvested on county-wide either-sex days. Individual antlerless deer tags are valid on days not designated as either-sex after Sept. 15 for still hunting only.

# **Hellhole WMA**

Delete special hog hunts in Feb.

# Waterhorn WMA

Hog Hunts with dogs

Every other Sat. in Feb. beginning with the 1<sup>st</sup> Sat.

No limit.

No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party(buck shot only). Pistols allowed. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hog hunters must sign in at designated locations and complete a data card upon entering and leaving Waterhorn WMA. Hunting allowed from legal sunrise to legal sunset.

#### Wambaw WMA

Hog Hunts with dogs		No limit.
	2 <sup>nd</sup> Sat. in Feb. and ending on 1 <sup>st</sup> Sat. in March.	

No more than 4 bay or catch dogs per party. No still or stalk hunting permitted. One shotgun per party(buck shot only). Pistols allowed. Hog hunters must have a hunting license and WMA permit, and are required to wear a hat, coat or vest of solid international orange color while hunting. Hogs may not be transported alive. Hog hunters must sign in at designated locations and complete a data card upon entering and leaving Wambaw WMA. Hunting allowed from legal sunrise to legal sunset.

#### (H) Moultrie

# Hall WMA

Small Game	Jan. 2 through Mar. 1	Game Zone 6 bag limits except
(Shotguns only)		quail 8 per day.

#### **Bluefield WMA (Adult/Youth Area)**

Bluefield WMA is open only to youth 17 years of age or younger who must be accompanied by an adult at least 21 years of age. Youth hunters must carry a firearm and hunt. Adults with youth will be allowed to carry a weapon and hunt.

<b>Cross Station Site</b> Special Gun Hunts for youth and women.	No open season except hunters selected by drawing.	1 deer per day, either-sex
(J) Webb WMA		
Quail Hunts Quail hunters must Return data cards At kiosk	2 <sup>nd</sup> and 4 <sup>th</sup> Wed. in Jan. pick-up and 3 <sup>rd</sup> Sat. in Jan. 1 <sup>st</sup> and 3 <sup>rd</sup> Sat. in Feb. 1 <sup>st</sup> Wed. in Feb.	8 quail per party per day
Hog Hunts No dogs.	3 <sup>rd</sup> Thurs. – Sat. in March 2 <sup>nd</sup> Thurs. – Sat. in May 1 <sup>st</sup> Thurs. – Sat. in Sept.	No limit.

Hog Hunts	1 <sup>st</sup> Thurs Sat. in March
	2 <sup>nd</sup> ThursSat. in March
Four dog limit per party.	2 <sup>nd</sup> Thurs. – Sat. in Sept.

# (P) Pee Dee Station Site WMA

Deer

Total of 3 for all hunt periods combined.

Still hunting only, no deer dogs, no buckshot, no hunting or shooting from or on any roads open to vehicular traffic. The scouting seasons are 3-day periods on Saturday through Monday immediately proceeding hunt periods. Hunters must sign in and out at the check station.

# (Q) Aiken Gopher Tortoise WMA

Deer Hunts (No dogs)		Total 3 deer Not to include more than 2 bucks. Hogs no limit.	
Raccoon & Oppossum	Thanksgiving night – Mar. 1	3 raccoons per party per night. No limit on opossum.	
Hogs	Oct. 1 - Jan. 1	No limit.	
(R) Santee Coastal Reserve W	MA		
Special Hog Hunt With Dogs	2 <sup>nd</sup> and 4 <sup>th</sup> Thurs. in Feb. 3 <sup>rd</sup> and 4 <sup>th</sup> Fri. in Mar.	Hogs Only, no limit, handguns only, limit of 4 bay or catch dogs per party, no live hogs to be removed from Santee Coastal. All hogs must be checked at the Santee Coastal Reserve check station.	
(S) Other Small WMAs			
Chesterfield, Kershaw, Dillon & Marlboro Counties			
Archery Only Hunts	Sept. 1 – 14	Total of 3 deer for all archery hunts, 2 per day.	
Still Gun Hunts and Archery (No Dogs)	Sept 15 - Jan 1	Total 10 deer for all gun hunts, 2 per day, buck only except on Game Zone 4 either-	

sex days as specified in Reg. 4.2. Limit of 10 may not include more than 5 bucks. Male deer required 2 inches of visible antler above the hairline to be legal. Male fawns (button bucks) are considered antlerless deer, legal only during eithersex hunts; however, they apply toward the buck limit. Archers are allowed to take either-sex during entire period; however, daily and season bag limits apply.

Game Zone 4 bag limits.

Small Game

No hunting before Sept. 1 or after Mar. 1; otherwise Game Zone 4 limits apply.

# **Dillon County**

Delete Dillon County Archery, Still Gun Hunts and Small Game seasons. Dillon County is added to other Game Zone 4 counties, Kershaw, Chesterfield and Marlboro.

Hogs And Coyotes: On other WMA lands in Game Zones 3 - 6, hogs and coyotes may be taken during the open season for game. No hog or coyote hunting with dogs during still gun hunts for deer. Only small game weapons allowed during the small game-only seasons. During turkey season hogs may be taken using legal weapons for turkey only.

# (U) Manchester State Forest WMA

Deer

Total of 5 deer per season for all hunts.

Deer must be checked at check station. No man-drives during either-sex still gun hunts for deer. Hogs maybe taken only during deer hunts. No hogs may be removed alive from MSF.

Delete Special Hog Still Gun Hunt Delete Special Hog Hunt with dogs

cards at access points.

Quail (Except Bland and Tuomey Tracts)	Thanksgiving – March 1.	Game Zone 5 bag limits.
Quail (Bland and Tuomey Tracts) Quail hunters must pick up and return data	Designated days within Game Zone 5 season.	Game Zone 5 bag limits.

Squirrel and Rabbit	Thanksgiving Day - Mar. 1 Except no squirrel or rabbit	Game Zone 5 bag limits.
	hunting on Bland and Tuomey Tracts during scheduled quail hunts.	

# (X) Hamilton Ridge WMA

Deer

Archery Only (No dogs)	3 <sup>rd</sup> Mon- Sat. in Sept. 4 <sup>th</sup> Mon. – Sat. in Oct. 2 <sup>nd</sup> Mon. – Sat. in Nov. 2 <sup>nd</sup> Thur. – Sat. in Dec.	2 deer per hunt period, either-sex, only 1 buck. Hogs no limit.
Small Game No open season on fox squirrels	No hunting before Dec. 26 or after Mar. 1; otherwise Game Zone seasons apply. No hog hunting during small game hunts.	Game Zone bag limits.
Hog Still and Stalk Hunts Archery and Firearms (No dogs, no buckshot)	3 <sup>rd</sup> Thurs. – Sat. in March 2 <sup>nd</sup> Thurs. – Sat. in May 1 <sup>st</sup> Thurs. – Sat. in Sept.	No limit.
Hog Hunts with dogs (handguns only) Four dog limit per party.	1 <sup>st</sup> Thur. – Sat. in Mar. 2 <sup>nd</sup> ThursSat. in March 2 <sup>nd</sup> Thurs. – Sat. in Sept	No limit.

Hog hunters are required to wear hat, coat or vest of solid international orange color while hunting. Hunters must sign register upon entering and leaving Hamilton Ridge WMA.

Quail Hunts Quail hunters Must pick-up and Return data cards At kiosk	2 <sup>nd</sup> and 4 <sup>th</sup> Wed. in Jan. 3 <sup>rd</sup> Sat. in Jan. 1 <sup>st</sup> and 3 <sup>rd</sup> Sat. in Feb. 1 <sup>st</sup> Wed. in Feb.	8 quail per party per day
(DD) Palachucola WMA		

# Small GameNo hunting before Sept. 1 or<br/>after Mar. 1; otherwise GameGame Zone 6 bag limits.(No open season for<br/>fox squirrels)Zone 6 seasons apply.<br/>No small game hunting during<br/>scheduled deer hunts.Game Zone 6 bag limits.

Quail Hunts Quail hunters Must pick-up and Return data cards At kiosk	2 <sup>nd</sup> and 4 <sup>th</sup> Wed. in Jan. 3 <sup>rd</sup> Sat. in Jan. 1 <sup>st</sup> and 3 <sup>rd</sup> Sat. in Feb. 1 <sup>st</sup> Wed. in Feb.	8 quail per party per day
Hog Hunts No dogs	3 <sup>rd</sup> Thurs. – Sat. in March 2 <sup>nd</sup> Thurs. – Sat. in May 1 <sup>st</sup> Thurs. – Sat. in Sept.	No limit.
Hog Hunts with Dogs (Pistols) Four dog limit per party	1 <sup>st</sup> Thurs Sat. in March 2 <sup>nd</sup> ThursSat. in March 2 <sup>nd</sup> Thurs. – Sat. in Sept.	No limit.

# (HH) Canal WMA

Hunters must pick up and return data cards at access points. Shotguns must be plugged so as not to hold more than 3 shells.

# (OO) Santee Dam WMA

Deer		Total of 8 deer per season.	
Archery (No dogs)	Sept. 1 through Jan. 1	2 deer per day, buck only, except either-sex Sept. 15 - Jan. 1 Hogs no limit.	
Muzzleloader	Sept. 15 through Jan. 1	2 deer per day, either-sex. Hogs no limit.	
Delete Special Gun Hunts for Youth and Women			
Small Game Shotguns only, no open season on fox squirrels.	Jan. 2 through Mar. 1.	Game Zone 5 bag limits.	

# (QQ) Oak Lea WMA

Deer

Data cards required for hunter access during archery deer hunts, turkey hunts and small game hunts. Completed data cards must be returned daily upon leaving Oak Lea WMA. Still Gun Hunts No open season except 3 deer per day, either-sex;

No open season except Hunters selected by drawing 3 deer per day, either-sex;1 buck per day limit. Total 20 deer per hunt party.

Small Game (except quail)	Jan. 2 through Mar. 1 Except no small game hunting during scheduled quail hunts	Game Zone 5 limits.
Quail	Designated dates within Game Zone 5 season.	Game Zone 5 limits.
(SS) Edisto WMA		
Small Game	Game Zone 6 seasons, except no hunting before the Monday following the closing of still gun deer hunt or after Mar. 1	Game Zone 6 bag limits except Quail- 8 per day.

#### (TT) Stumphouse WMA

In order to fish or hunt Stumphouse WMA each adult (21 or older) must have at least one youth 17 or under accompanying them. Senior Citizens over 65 years of age are exempt from carrying a youth in order to fish. No motorized vehicles or horses allowed on the property except in designated parking areas. Walk in use only. Small game hunting only from Thanksgiving Day through March 1.

# (VV) Bonneau Ferry WMA

Horse riding is prohibited. No camping is allowed. No person hunting on Bonneau Ferry WMA may possess, consume, or be under the influence of intoxicants including beer, wine, liquor or illegal drugs. All terrain vehicles are prohibited. Hunting access by boat is prohibited. Adult/youth fishing only. For fishing, youth must be accompanied by no more than two adults 18 years old or older. For hunting, Adult/youth Side A is open only to youth 17 years old or younger who must be accompanied by one adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt. For deer and small game hunting Sides A and B will alternate each year. All hunters must sign in and sign out upon entering or leaving Bonneau Ferry WMA. Bonneau Ferry WMA is closed to public access one hour after sunset until one hour before sunrise except, for special hunts regulated by DNR. Hunters may not enter WMA prior to 5:00 AM on designated hunts. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 – Mar. 1 except for special draw deer hunts and waterfowl hunts regulated by DNR during the regular waterfowl season. No fox or bobcat hunting.

Deer

Limit 2 deer per day, total 8 deer per season for all hunts, no more than 2 antlered deer total. Hogs no limit.

Side A (Adult/Youth Only) Still Gun Hunts

Sept. 15 – Jan. 1, Wed., Fri., Sat., and the entire week of Thanksgiving and 5 days before Christmas until Jan. 1. Side B

Archery	1 <sup>st</sup> Mon. – Sat. in Sept.	Buck only.
	1 <sup>st</sup> Mon. – Sat. after Sept. 15	Either-sex
	2 <sup>nd</sup> Mon. in Nov. until Nov. 30	Either-sex.

Quail (Side B)	No open season except hunters	Limit 8 per day.
Shotguns must be plugged to	selected by drawing.	
Hold no more than 3 shells.		
Hunters must pick up, accurately		
fill out and return data card at the		
main entrance.		

2.8 On WMA lands any hunter younger than sixteen (16) years of age must be accompanied by an adult (21 years or older) who is validly licensed and holds applicable permits, licenses or stamps for the use of WMA lands. Sight and voice contact must be maintained. This also applies to non-state or non-federally owned leased WMA land in Game Zones 1 and 2 for deer hunting.

2.10 No person may release or attempt to release any animal onto WMA lands without approval from the Department.

2.11 While hunting on WMA's, no person may consume or be under the influence of intoxicants, including beer, wine, liquor or drugs.

2.12 On WMA lands, during the designated statewide youth deer hunt day, still hunting only, two deer, either-sex. The statewide youth day hunts are: raccoon Sept. 7, 2007, squirrel Sept. 29, 2007, quail November 17, 2007, Deer January 5, 2008, rabbit March 8, 2008 and turkey March 29, 2008.

2.13 Taking or destroying timber, other forest products or cutting firewood on WMA lands without written permission from the landowner or his agent is prohibited. Users of WMA lands are prohibited from planting, attempting to plant, burning or otherwise attempting to manipulate crops, natural vegetation or openings without written permission from the landowner or his agent.

3.1 On WMA lands hunters may use any shotgun, rifle, bow and arrow or handgun except that specific weapons may be prohibited on certain hunts. Small game hunters may possess or use shotguns with shot no larger than No. 2 or .22 rimfire or smaller rifles/handguns or primitive muzzle-loading rifles of .40 caliber or smaller. Small game hunters may not possess or use buckshot, slugs or shot larger than No. 2. Blow guns, dart guns or drugged arrows are not permitted. Small game hunters using archery equipment must use small game tips on the arrows (judo points, bludgeon points, etc.). The use of crossbows during any archery only season is unlawful except as allowed by 50-11-565.

3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge. There are no restrictions on ignition systems (e.g. flintstone, percussion cap, shotgun primer, disk, electronic, etc.). During primitive weapons season, no revolving rifles are permitted. Crossbows may be used on WMA and private lands only during firearms and muzzleloader seasons for deer and bear.

3.4 On WMAs during periods when hunting is permitted, all firearms transported in vehicles must be unloaded and secured in a weapons case, or in the trunk of a vehicle or in a locked toolbox. On the Francis Marion Hunt Unit during deer hunts with dogs, loaded shotguns may be transported in vehicles. Any shotgun, centerfire rifle or rimfire rifle or pistol with a shell in the chamber or magazine or muzzleloader with a cap on the nipple or flintlock with powder in the flash pan is considered loaded. On deer hunts with dogs, all guns must be unloaded and cased one hour after legal sunset.

3.5 No target practice is permitted on WMA lands except in specifically designated areas.

3.6 On WMA lands during still gun hunts for deer or hogs there shall be no hunting or shooting from, on or across any road open to vehicle traffic. During any deer or hog hunt there shall be no open season for hunting on any designated recreational trail on U.S Forest Service or S.C. Public Service Authority property.

# DEER

4.1 On WMA lands with designated check stations, all deer bagged must be checked at a check station. Deer bagged too late for reporting one day must be reported the following day. Unless otherwise specified by the department, only bucks (male deer) may be taken on all WMA lands. Male deer must have antlers visible two (2) inches above the hairline to be legally bagged on "bucks only" hunts. Male deer with visible antlers of less than two (2) inches above the hairline must be taken only on either-sex days or pursuant to permits issued by the department. A point is any projection at least one inch long and longer than wide at some location at least one inch from the tip of the projection. Antler spread is the greatest outside measurement (main beam or points) on a plane perpendicular to the skull. On WMA lands, man drives for deer are permitted between 10:00 a.m. and 2:00 p.m. only, except that no man drives may be conducted on days designated by the department for taking deer of either sex. On WMA lands, drivers participating in man drives are prohibited from carrying or using weapons. On WMA lands, in Game Zones 1 and 2, man drives will be permitted on the last four (4) scheduled either-sex days. A man drive is defined as an organized hunting technique involving two (2) or more individuals whereby an attempt is made to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters.

5.5 Dogs may be used to hunt bear on WMA lands in Game Zone 1 during the special party dog bear season.

6.1 On all WMA lands, no hunter may shoot from a vehicle except that mobility impaired hunters may take game from any stationary motor driven land conveyance or trailer which is operated in compliance with these rules. For purposes of this regulation, mobility impaired means individuals who are permanently confined to a wheelchair, permanently require the use of two crutches, permanently require the use of a walker to walk, or persons with single or double leg amputations. Written confirmation of permanent impairment is required from a physician or qualifying agency.

6.2 On WMA lands, motor driven land conveyances must be operated only on designated roads or trails. Unless otherwise specified, roads or trails which are closed by barricades and/or signs, either permanently or temporarily, are off limits to motor-driven land conveyances.

6.3 It is unlawful to obstruct travel routes on WMA lands.

# VISIBLE COLOR CLOTHING

7.1 On WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters must wear either a hat, coat, or vest of solid visible international orange, except hunters for dove, turkey and duck are exempt from this requirement while hunting for those species.

# CAMPING

8.1 Camping is not permitted on WMA lands except in designated camp sites.

10.9 Broad River Waterfowl Area is closed to public access during the period 01 Nov. - 01 Feb. except for special hunts designated by the Department.

10.10 Impoundments on Bear Island, Donnelly, Samworth, Santee Coastal Reserve and Santee Delta WMAs are closed to all public access during the period 15 Oct.- 31 Jan. except during special hunts designated by the Department. All public access during the period 01 Feb.- Oct. 14 is limited to designated areas. On Bear Island WMA, Mathews' Canal is closed to all hunting from Nov. 1 - Feb. 15 beyond a point 0.8 mile from the confluence of Mathews' Canal with the South Edisto River.

10.11 Potato Creek Hatchery Waterfowl Area is closed to hunting access one week prior to opening of waterfowl season through January 31, except for scheduled waterfowl hunts. No fishing one week prior to opening of waterfowl season through January 31. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area. Hunting hour are from 30 minutes before legal sunrise to legal sunset (including the special youth hunt). Hunters may not enter the area prior to 3:00 a.m. on hunt days. No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

10.12 Hunters may not enter Hatchery WMA prior to 3 AM and must leave the area by 1 PM. Each hunter is limited to twenty-five nontoxic shot shells (steel, bismuth/tin, bismuth, tungsten-polymer, tungsten-iron) per hunt and no buckshot allowed. Hunters must enter and leave Hatchery WMA through the Hatchery Landing and accurately complete a data card and deposit card in receptacle prior to leaving the area. No airboats are allowed in the Hatchery WMA for hunting or fishing during the period 15 Nov.-31. Jan. No fishing allowed during scheduled waterfowl hunts.

10.16 Category II Designated Waterfowl Areas include Biedler Impoundment, Carr Creek (bounded by Samworth WMA), Little Carr Creek (bounded by Samworth WMA), Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Sampson Island Unit (Bear Island), Tyger River, Marsh, Wee Tee, Woodbury and Ditch Pond Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

# DESIGNATED WATERFOWL AREAS

Area Ditch Pond regular season.	Open dates inclusive Wed. AM only during	Bag Limits Federal Limits
Sampson Island Unit (Bear Island)	Thurs. and Sat. am only during the regular season.	Federal Limits

10.19 Hickory Top Greentree Reservoir is closed to hunting access November 1 until March 1, except for special hunts designated by SCDNR. All hunters must accurately complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise until 11:00 am. Hunters may not enter the area prior to 5:00 am on hunt days. No open season on roads and dikes. Hunters may only use electric motors on boats.

10.20 On all Category I and II Waterfowl Management Areas each hunter is limited to 25 shells which must be non-toxic(steel, bismuth/tin, bismuth, tungsten-polymer, tungsten-iron) per hunt and no buckshot allowed.

10.21 On Enoree River, Dunaway, Duncan Creek and Tyger River Waterfowl Areas data cards are required for hunter access during scheduled waterfowl hunts. Completed data cards must be returned daily upon leaving each of these areas.

# 123-52. Deer Hunting on Private Lands in Game Zones 1 and 2 (50-11-310, 50-11-350, 50-11-390).

3. For Special Primitive Weapons Seasons, primitive weapons include bow and arrow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge. There are no restrictions on ignition systems (e.g. flintstone, percussion cap, shotgun primer, disk, electronic, etc.). During primitive weapons season, no revolving rifles are permitted. Crossbows may be used on WMA and private lands only during firearms and muzzleloader seasons for deer and bear

#### **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 September 1, it is necessary to file these regulations as emergency so they take effect immediately.

# **Fiscal Impact Statement:**

This amendment of Regulation 123.40 will result in increased public hunting opportunities that 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.