

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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STEPHEN T. DRAFFIN, DIRECTOR
ANNE F. CUSHMAN, EDITOR
DEIRDRE BREVAR-D-SMITH, ASSOCIATE EDITOR

P.O. BOX 11489
COLUMBIA, SC 29211
TELEPHONE (803) 212-4500

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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.

2008 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	1/11	2/8	3/14	4/11	5/9	6/13	7/11	8/8	9/12	10/10	11/14	12/12
Publishing Date	1/25	2/22	3/28	4/25	5/23	6/27	7/25	8/22	9/26	10/24	11/28	12/26

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 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

Status and Legislative Review Expiration Dates1
 Committee List of Regulations Submitted to General Assembly2

NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Air Quality State Implementation Plan – Transportation Conformity Rule3
 Certification of Need.....5
 Ground Level Non-attainment Boundary Recommendations 2008.....7

DRAFTING NOTICES

ATTORNEY GENERAL, OFFICE OF

Securities.....9

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF

Air Pollution Control Regulations and Standards (61-62.60; 61-62.72; 61-62) 9
 Hazardous Waste Management..... 10

INSURANCE , DEPARTMENT OF

Continuing Insurance Education 11
 Date for Payment of Annual License Fees for Insurance Agents, Brokers, Adjusters
 Agencies, and Motor Vehicle Damage Appraisers 12
 Insurance Holding Company Systems 12
 Medicare Supplement Insurance 13
 Reinsurance Facility Recoupment 13
 Valuation of Investments 14

PROPOSED REGULATIONS

CLEMSON UNIVERSITY

State Crop Pest Commission

Document No. 4039 Designation of Plant Pest and Quarantine 15

CONSUMER AFFAIRS, DEPARTMENT OF

Document No. 4040 Consumer Credit Counseling Licensees 17

LABOR, LICENSING AND REGULATION, DEPARTMENT OF

Pilotage, Commissioners of

Document No. 4041 Amend and Update the Regulations in Conformance with 2006 Act 237 19

NATURAL RESOURCES, DEPARTMENT OF

Document No. 4042 Seasons, Limits, Methods of Take and Special Use Restrictions on
 Wildlife Management Areas 21

TABLE OF CONTENTS

WORKERS' COMPENSATION COMMISSION

Document No. 4043 Amend and Add Regulations to Chapter 67 to Reflect Changes in
Title 42 Necessitated by the Approval of Act 111 on June 25, 2007 25

EMERGENCY REGULATIONS

EDUCATION, STATE BOARD OF

Document No. 4037 Operation of Public Pupil Transportation Services 32

NATURAL RESOURCES, DEPARTMENT OF

Document No. 4038 Seasons, Limits, Methods of Take and Special Use Restrictions on
Wildlife Management Areas 35

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/regnsrch.htm

DOC NO.	RAT NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
3202			Requirements for Licensure as a Physical Therapist	2/11/09	LLR - Board of Physical Therapy Examiners
3201			Mobile Dental Facilities and Portable Dental Operations	2/12/09	LLR - Board of Dentistry
3196			S.C. National Guard College Assistance Program	3/03/09	Commission on Higher Education
3206			Application, Renewal and Continuing Education	3/11/09	LLR - Board of Chiropractic Examiners
3207			Board of Veterinary Medical Examiners Chapter Revision	3/11/09	LLR - Bd of Veterinary Medical Examiners
3204			Licensing Standards for Continuing Care		
			Retirement Communities	3/12/09	Department of Consumer Affairs
3199			South Carolina Trauma Care Systems	3/12/09	Department of Health and Envir Control
3209			Operation of Public Pupil Transportation Services	4/07/09	State Board of Education
3214			Fire Prevention and Life Safety	4/22/09	LLR - Office of State Fire Marshal
3215			Fire Prevention and Life Safety for Special Occupancies	4/22/09	LLR - Office of State Fire Marshal
3216			Explosives	4/22/09	LLR - Office of State Fire Marshal
3217			Portable Fire Extinguishers and Fixed Fire		
			Extinguishing Systems	4/22/09	LLR - Office of State Fire Marshal
3218			Liquefied Petroleum (LP) Gas	4/22/09	LLR - Office of State Fire Marshal
3219			Fireworks and Pyrotechnics	4/22/09	LLR - Office of State Fire Marshal
3220			Fire Prevention and Life Safety in Local Detention Facilities	4/22/09	LLR - Office of State Fire Marshal
3213			Annual Audited Financial Reporting Regulation	4/30/09	Department of Insurance
3208			Contact Information from Traffic Stops	5/13/09	Department of Public Safety
3205			Tax Credits for Fortification Measures	5/13/09	Department of Insurance
3197			Annual Reporting Requirements for Designated Eligible		
			Telecommunications Carriers	5/13/09	Public Service Commission
3203			Telephone Utilities Offering Regulated Prepaid Local		
			Exchange Services and Bonds	5/13/09	Public Service Commission
3210			Licensing of Onsite Wastewater System Master Contractor	5/13/09	Department of Health and Envir Control
3198			Solid Waste Management: Demonstration-of-Need	5/13/09	Department of Health and Envir Control
4004			Federal Government Construction Contracts	5/13/09	Department of Revenue
4003			Donors and Goods Given Away for Advertising Purposes	5/13/09	Department of Revenue
3225			Hazardous Waste Management	5/13/09	Department of Health and Envir Control
Committee Requested Withdrawal:					
3184			Restructuring ATF Regulations - Pyrotechnic Safety		LLR - Board of Pyrotechnic Safety
Permanently Withdrawn:					
3166			SCDOT Chief Internal Auditor		Department of Transportation

2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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/regnsrch.htm

DOC No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
3202	Requirements for Licensure as a Physical Therapist	Medical, Military, Pub & Mun Affairs	Medical Affairs
3201	Mobile Dental Facilities and Portable Dental Operations	Medical, Military, Pub & Mun Affairs	Medical Affairs
3196	S.C. National Guard College Assistance Program	Education and Public Works	Education
3206	Application, Renewal and Continuing Education	Medical, Military, Pub & Mun Affairs	Medical Affairs
3207	Board of Veterinary Medical Examiners Chapter Revision	Agriculture and Natural Resources	Labor, Commerce and Industry
3204	Licensing Standards for Continuing Care Retirement Communities	Medical, Military, Pub & Mun Affairs	Medical Affairs
3199	South Carolina Trauma Care Systems	Medical, Military, Pub & Mun Affairs	Medical Affairs
3209	Operation of Public Pupil Transportation Services	Education and Public Works	Education
3214	Fire Prevention and Life Safety	Labor, Commerce and Industry	Labor, Commerce and Industry
3215	Fire Prevention and Life Safety for Special Occupancies	Labor, Commerce and Industry	Labor, Commerce and Industry
3216	Explosives	Labor, Commerce and Industry	Labor, Commerce and Industry
3217	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	Labor, Commerce and Industry	Labor, Commerce and Industry
3218	Liquefied Petroleum (LP) Gas	Labor, Commerce and Industry	Labor, Commerce and Industry
3219	Fireworks and Pyrotechnics	Labor, Commerce and Industry	Labor, Commerce and Industry
3220	Fire Prevention and Life Safety in Local Detention Facilities	Labor, Commerce and Industry	Labor, Commerce and Industry
3213	Annual Audited Financial Reporting Regulation	Labor, Commerce and Industry	Banking and Insurance
3208	Contact Information from Traffic Stops		
3205	Tax Credits for Fortification Measures		
3197	Annual Reporting Requirements for Designated Eligible Telecommunications Carriers		
3203	Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds		
3210	Licensing of Onsite Wastewater System Master Contractors		
3198	Solid Waste Management: Demonstration-of-Need		
4004	Federal Government Construction Contracts		
4003	Donors and Goods Given Away for Advertising Purposes		
3225	Hazardous Waste Management		
Committee Requested Withdrawal:			
3184	Restructuring ATF Regulations - Pyrotechnic Safety	Labor, Commerce and Industry	Labor, Commerce and Industry
Permanently Withdrawn:			
3166	SCDOT Chief Internal Auditor	Education and Public Works	Transportation

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

NOTICE OF FINAL AMENDMENT TO AIR QUALITY STATE IMPLEMENTATION PLAN

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

Synopsis:

Pursuant to Section 176(c) of the Federal Clean Air Act Amendments (CAAA), the Department has revised the State Implementation Plan (SIP) to meet the obligations of the “Transportation Conformity Rule Amendments for the New PM_{2.5} National Ambient Air Quality Standard: PM_{2.5} Precursors,” and the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).”

On September 27, 1996, a Memorandum of Agreement (MOA), negotiated between the Department and the South Carolina Department of Transportation (SC DOT), was published in the *South Carolina State Register*. The purpose of the MOA was to formally incorporate the applicable provisions of the transportation conformity review process in accordance with the requirements of the CAAA, as promulgated by the United States Environmental Protection Agency (EPA) on November 24, 1993 (58 FR 62188), in 40 CFR Part 51, Subpart T, and as amended August 7, 1995 (60 FR 40098), and November 14, 1995 (60 FR 57179). Under those authorities, no department, agency, or instrumentality of the Federal government or a State government shall engage in, support in any way or provide financial assistance for, license or permit, or approve any activity that does not conform to the SIP. The transportation conformity rule requires Federal and State agencies to determine, prior to taking any action on transportation plans, programs, and projects, that such action will conform to a SIP to maintain the National Ambient Air Quality Standards (NAAQS). The transportation conformity regulation applies only to areas that are designated nonattainment or maintenance for any of the applicable criteria pollutants (ozone, carbon monoxide, small particulate matter, or nitrogen dioxide).

On August 15, 1997 (62 FR 43780), April 10, 2000 (65 FR 18911), and August 6, 2002 (67 FR 50808), the EPA promulgated amendments to the transportation conformity rule to streamline and clarify the criteria and procedures for determining the conformity of transportation plans, programs, and projects. The State was required by 40 CFR Part 51, Subpart T, Section 51.390 to amend the SIP by specifically removing any previously-applicable implementation plan transportation conformity requirements and submitting a revision to the SIP that addresses all requirements of 40 CFR Part 93, Subpart A. A Notice of General Public Interest was initially published in the *South Carolina State Register* on August 25, 2000, and was revised on August 22, 2003. A staff-conducted public hearing was held on the proposed revision on September 22, 2003. The SIP amendment was submitted to the EPA for final approval on November 19, 2003. The EPA published the approval of the revision in the *Federal Register* (69 FR 4245) on January 29, 2004.

In accordance with these requirements and as part of the 2004 SIP amendment, the Department incorporated into the SIP a new MOA to implement Section 176 of the CAAA, as amended (42 U.S.C. 7401, *et seq.*), the related requirements of 23 U.S.C. 109(j), and regulations under 40 CFR Part 93, Subpart A. The parties to this MOA are as follows: each of the Metropolitan Planning Organizations (MPO) as described in Exhibit 1, the Department, SC DOT, Federal Highway Administration - South Carolina Division Office (FHWA), the Federal Transit Administration (FTA), the EPA Region 4 (EPA Region 4), and local publicly-owned transit agencies not represented by aforementioned MPOs. Exhibit 2 of the MOA is the “South Carolina Criteria and Interagency Consultation Procedures for the Determination of the Conformity of Transportation Plans, Programs, and Projects,” which provides for interagency consultation, resolution of conflicts, and public consultation procedures. The parties to this MOA agreed to conduct transportation conformity determinations in accordance with the provisions of 40 CFR Part 93, Subpart A as listed in Exhibit 3 of the MOA.

4 NOTICES

On May 6, 2005, the EPA promulgated a final rule entitled, “Transportation Conformity Rule Amendments for the New PM_{2.5} National Ambient Air Quality Standard: PM_{2.5} Precursors” (70 FR 24280). This final rule specified the transportation-related PM_{2.5} precursors and when they would apply in transportation conformity determinations in PM_{2.5} nonattainment and maintenance areas. The Department is required by 40 CFR Part 51, Subpart T, Section 51.390 to amend the SIP by specifically incorporating several requirements from the Federal Transportation Conformity Rule that address the consultation process, as well as establish that SIPs must include written commitments of mitigation measures.

On August 10, 2005, the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)” was signed into law. SAFETEA-LU amended the CAAA by: changing the required frequency of transportation conformity determinations from three years to four years; providing two years to determine conformity after new SIP motor vehicle emissions budgets are either found adequate, approved, or promulgated; adding a one-year grace period before the consequences of a conformity lapse apply; providing for an option for reducing the time period addressed by conformity determinations; streamlining requirements for conformity SIPs; and providing procedures for areas to use in substituting or adding transportation control measures (TCMs) to approved SIPs. SAFETEA-LU section 6011(g) requires that the EPA revise the transportation conformity rule as necessary to address these changes by August 10, 2007. On May 2, 2007, the EPA proposed changes to the transportation conformity rule to make it consistent with the CAAA as amended by SAFETEA-LU. The Department is required by 40 CFR Part 51, Subpart T, Section 51.390 to amend the SIP by specifically incorporating several requirements from the Federal Transportation Conformity Rule that address the aforementioned changes.

On November 1, 2007, the Department held a stakeholder meeting of the interagency partners in order to seek their input on the proposed revisions to the South Carolina Transportation Conformity SIP and MOA. Several comments were received, and those deemed significant by the Department were used to modify the SIP and MOA.

On January 24, 2008, the EPA again promulgated amendments to the Transportation Conformity Regulations (73 FR 4420). These amendments are necessary to make the final rule consistent with the CAAA Section 176(c) as amended by SAFETEA-LU, including changes to the regulations to reflect that the CAAA now provides more time for state and local governments to meet conformity requirements, provides a one-year grace period before the consequences of not meeting certain conformity requirements apply, allows the option of shortening the timeframe of conformity determinations, and streamlines other provisions.

The Department published a notice of intent to amend the SIP and an announcement of a 30-day comment period and public hearing in the *South Carolina State Register* on March 28, 2008. On the same day, a prehearing package was submitted to the EPA Region 4. At the conclusion of the public comment period, a public hearing was held on April 28, 2008. Written comments were received from the EPA Region 4 and those deemed significant were used to modify the SIP and MOA. No additional comments from the public were received. During the months of May, June, and July the majority of the necessary signatures for the MOA were obtained; with the final signature received on September 26, 2008. This final Amendment to the SIP takes effect upon publication of this Notice in the *South Carolina State Register* on November 28, 2008. The Department will submit a Notice of Final SIP Amendment to the EPA.

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 November 28, 2008, 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 Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Beaufort County

Acquisition of a da Vinci Surgical system for the purpose of providing robotic surgery services in an existing operating suite at Beaufort Memorial Hospital
Beaufort Memorial Hospital
Beaufort, South Carolina
Project Cost: \$1,571,000

Affecting Chesterfield County

Addition of three (3) nursing home beds that will not participate in the Medicaid (Title XIX) program for a total of one hundred twenty (120) nursing home beds
Cheraw Healthcare, Inc.
Cheraw, South Carolina
Project Cost: \$6,750

Affecting Greenville County

Renovation for the replacement of an existing 1.0T Magnetic Resonance Imaging (MRI) unit with a leased 3.0T MRI unit to be located on the first floor of Greenville Memorial Hospital within the existing MRI suite; initiation of temporary use of mobile MRI services at the rear of the Memorial Medical Office Building to be terminated upon installation of the new 3.0T MRI unit
Greenville Memorial Hospital
Greenville, South Carolina
Project Cost: \$3,200,000

Construction to establish a new fifty-two (52) bed acute care bed hospital through the transfer of fifty (50) acute beds from the bed need generated by ST. FRANCIS downtown and the relocation of two (2) existing beds from ST. FRANCIS downtown; the project includes one (1) Magnetic Resonance Imaging (MRI) unit and one (1) Computed Tomography (CT) unit to be located within the millennium campus on Lauren Road and Innovation Way, Greenville, South Carolina
St Francis Hospital Inc. – ST. FRANCIS millennium
Greenville, South Carolina
Project Cost: \$151,054,596

6 NOTICES

Affecting Horry County

Renovation for the relocation of the existing endoscopy and bronchoscopy suites including the upfit of shelled space on the first floor of the new inpatient tower previously approved in SC-06-04 to accommodate the expansion of endoscopy and bronchoscopy services by adding two (2) additional endoscopy suites and one (1) bronchoscopy suite for a total of four (4) endoscopy suites and two (2) bronchoscopy suites; the vacated endoscopy and bronchoscopy suite space will be renovated for the expansion of offices and other pre/holding areas

Conway Medical Center
Conway, South Carolina
Project Cost: \$4,797,752

Construction and renovation for the addition of fifteen (15) psychiatric beds and seven (7) inpatient treatment substance abuse beds for a total of fifty-nine (59) psychiatric beds and fifteen (15) inpatient treatment substance abuse beds

Lighthouse Care Center of Conway
Conway, South Carolina
Project Cost: \$7,792,365

Construction of a sixty (60) bed nursing home that will not participate in the Medicaid (Title XIX) Program
Shepherd's Landing Nursing and Rehabilitation Center

Little River, South Carolina
Project Cost: \$10,253,416

Affecting Laurens County

Change of licensure of eighteen (18) of the existing sixty-six (66) institutional nursing home beds that do not provide a community service resulting in a total licensed bed capacity of forty-eight (48) institutional nursing home beds and eighteen (18) nursing home beds that will not participate in the Medicaid (Title XIX) Program

Presbyterian Home of South Carolina—Clinton
Clinton, South Carolina
Project Cost: \$0

Affecting Pickens County

Establishment of an outpatient Narcotic Treatment Methadone program

Recovery Concepts of the Carolina Upstate, LLC
Easley, South Carolina
Project Cost: \$45,582

Affecting Richland County

Addition of a 1.5T Magnetic Resonance Imaging (MRI) unit in collaboration with Pitts Radiology to be located within One Richland Medical Park

Palmetto Health Richland
Columbia, South Carolina
Project Cost: \$2,201,532

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning November 28, 2008. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Charleston County

Purchase and installation of a four (4) slice Computed Tomography (CT) scanner
 Lowcountry Medical Associates, P.C.
 Mt. Pleasant, South Carolina
 Project Cost: \$621,937.76

Affecting Greenville County

Assumption of the lease of the existing sixty-four (64) slice Computed Tomography (CT) scanner from Innervision, Inc. by Northeast Columbia Diagnostic Imaging
 Northeast Columbia Diagnostic Imaging d/b/a Innervision MRI and Imaging, Inc.
 Greenville, South Carolina
 Project Cost: \$1,434,918

Affecting Spartanburg County

Establishment of the Regional Outpatient Center – North Grove, through the acquisition of Suite 1500 at North Grove Diagnostic Center and the relocation of diagnostic imaging equipment and the establishment of Magnetic Resonance Imaging (MRI) services at the Village Hospital
 Spartanburg Regional Medical Center – North Grove
 Spartanburg, South Carolina
 Project Cost: \$16,403,067

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

Synopsis:

The Clean Air Act requires the United States Environmental Protection Agency (EPA) to set and revise National Ambient Air Quality Standards (NAAQS) for criteria pollutants considered harmful to public health and the environment every five years. On March 12, 2008, EPA revised the primary (public health-related) and secondary (public welfare-related) NAAQS for ground-level ozone to 0.075 parts per million (ppm). Several areas of the State that are not meeting the new standards could be designated nonattainment. Local leaders, transportation/air quality planners, economic developers, industry officials, and others are encouraged to consider the health and regulatory implications of nonattainment, review EPA's boundary guidance, and provide comments to the Department of Health and Environmental Control (Department) to assist in determining what boundary recommendations will be made to the EPA.

Using boundary guidance from EPA, the State must recommend boundaries for areas that are not meeting the standard based on the most recent monitoring data. States wishing to propose larger or smaller boundaries than the Consolidated Metropolitan Statistical Area (CMSA) and Metropolitan Statistical Area (MSA) should address how the recommendations are consistent with the definition of nonattainment in Section 107(d)(1) of the Clean Air Act. Generally, CMSAs and MSAs share transportation, economic, population, and other similar air quality related factors that contribute to ground-level ozone formation more than other parts of the State. When an area is determined to have ozone concentrations exceeding the standard, the Department evaluates the technical air quality related factors contained in the boundary guidance to determine the recommended nonattainment area. The State's nonattainment area boundary recommendations are due to the EPA on March 12, 2009, and will be based on data from 2006 through 2008. The EPA will review the recommendations, provide comment back to the states and is expected to make final designations in March 2010. EPA's final designations will be based on data from 2007 through 2009.

8 NOTICES

Public Comment Period and Public Meeting:

Interested persons may submit written comments on the 2008 ground level non-attainment boundary recommendations during a public comment period from November 28, 2008 to January 7, 2009 by writing to L. Nelson Roberts, Jr. at the South Carolina Department of Health and Environmental Control, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 898-4122, or by email to robertln@dhec.sc.gov.

Interested persons may also submit comments by attending a public meeting to be held by Department staff from 1:00 to 4:00 p.m. on January 7, 2009 in Room 1625 of the Aycock Building, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina.

All public comments must be received by the Department no later than 5:00 p.m. on January 7, 2009, to be considered.

OFFICE OF THE ATTORNEY GENERAL

CHAPTER 13

Statutory Authority: 1976 Code Sections 35-1-101 et seq.

Notice of Drafting:

The Office of the Attorney General proposes to amend certain current Regulations and promulgate additional regulations to implement the South Carolina Uniform Securities Act of 2005 and to reflect other developments in securities regulation since 2005. Interested persons may submit comments to Thresechia Navarro, Office of the S.C. Attorney General, Securities Division, P.O. Box 11549, Columbia, SC 29211-1549. To be considered, comments must be received no later than 5:00 p.m. on December 29, 2008, the close of the drafting comment period.

Synopsis:

The Office of the Attorney General proposes to update and clarify the current Regulations. Legislative review of the proposed regulations will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) is proposing to amend R. 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality State Implementation Plan (SIP). Specifically, the Department proposes to amend R. 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, and R. 61-62.72, Acid Rain, by removing all provisions of the “Clean Air Mercury Rule” (CAMR). Also, the Department proposes to amend R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, by removing all provisions of three “Maximum Achievable Control Technology” (MACT) standards. Interested persons are invited to present their views in writing to Christopher L. Vaigneur, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by December 29, 2008, the close of the drafting comment period.

Synopsis:

On May 18, 2005, the United States Environmental Protection Agency (EPA) published a final rule titled “Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units” (70 FR 28606), also referred to as the CAMR. This final rule established standards of performance for mercury (Hg) emissions for new and existing coal-fired electric utility steam generating units (EGUs) as defined in Section 111 of the Clean Air Act. This final rule became effective July 18, 2005.

In accordance with this rule, states were required to adopt standards of performance for Hg emissions reductions by submitting an implementation plan, referred to as a “111(d) Plan”, which requires State rulemaking action followed by submittal to the EPA for review and approval. On January 11, 2007, a public hearing was held, wherein the Board of Health and Environmental Control gave approval for the regulation to be presented to the General Assembly. The Department submitted the State CAMR package to the EPA on March 8, 2007, for parallel processing. The State’s CAMR became state-effective upon its publication in the South Carolina State Register on June 22, 2007 (Vol. 31, Issue 6, Document No. 3083). The final package for the State CAMR was submitted to the EPA on August 16, 2007, for approval. On February 8, 2008, the United States Court of Appeals for the District of Columbia Circuit (Court of Appeals) vacated the CAMR (Case No. 05-1097). The EPA filed a

10 DRAFTING

petition for a rehearing by the full Court of Appeals, but the petition was denied. On October 17, 2008, the U.S. Department of Justice filed an appeal with the U.S. Supreme Court requesting that the court overturn the Court of Appeals vacatur of the CAMR.

On May 16, 2003, the EPA published a final rule (68 FR 26690) establishing national emission standards for hazardous air pollutants for new and existing sources at brick and structural clay products manufacturing facilities as well as new and existing sources at clay ceramics manufacturing facilities (40 CFR 63, subparts JJJJJ and KKKKK, respectively). These final rules became effective May 16, 2003, and were incorporated by reference in R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, by a Notice of Final Regulation published in the South Carolina State Register on September 24, 2004 (Vol. 28, Issue 9, Document No. 2913). On March 13, 2007, the Court of Appeals vacated these rules (Case No. 03-1202).

On September 13, 2004, the EPA published a final rule (69 FR 55218) establishing NESHAP for industrial, commercial, and institutional boilers and process heaters (40 CFR 63, subpart DDDDD). This final rule became effective November 12, 2004, and was incorporated by reference in R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, by a Notice of Final Regulation published in the South Carolina State Register on August 26, 2005 (Vol. 29, Issue 8, Document No. 2980). On June 8, 2007, the Court of Appeals vacated this rule (Case No. 04-1385).

The Department proposes to amend R. 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards, R. 61-62.72, Acid Rain, and R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories, by removing all provisions of the CAMR and the aforementioned vacated MACT rules published in the Federal Register on May 16, 2003, and September 13, 2004, respectively. The Department may also propose typographical corrections and clarifications to R. 61-62 as necessary.

A previous Notice of Drafting that was published in the State Register on September 26, 2008, addressed several of the proposed amendments included in this drafting notice. The previously proposed amendments are being included again as well as additional related proposals that were inadvertently omitted from the September notice.

The proposed amendments will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-30 et seq.

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) proposes to amend R.61-79, Hazardous Waste Management Regulations. Interested persons are invited to present their views in writing to Richard Haynes, Director of the Division of Waste Management, Bureau of Land and Waste Management, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on Tuesday, January 6, 2009, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (USEPA) promulgated amendments to 40 CFR 260, 261, 264, and 266 during the previous calendar year. Recent federal amendments affect three Final Rules in the period between July 1, 2007 and June 30, 2008. The first Rule provides for an exclusion to the definition of solid waste for oil-bearing hazardous secondary materials generated at a petroleum refinery when these materials are recycled by inserting them back into the petroleum refining process. The second Rule finalizes amendments to the National Emission Standards for Hazardous Air Pollutants, clarifying compliance monitoring provisions, and correcting

typographical errors and omissions. The last Rule is the F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes. These wastewater treatment sludges will be exempted from the F019 listing at their point of generation, and will not be subject to any RCRA Subtitle C management requirements for generation, storage, transport, treatment, or disposal. Generators will be required to maintain records on-site to show that the waste meets the conditions of the listing. These rules were published by the USEPA in the *Federal Register* on January 2, 2008 at 73 FR 57, April 8, 2008 at 73 FR 18970 and June 4, 2008 at 73 FR 31756. The adoption of these three above-described Rules is optional to states. The Department intends to amend R.61-79 to maintain conformity with federal regulations by adopting all three rules.

Also, the Department is proposing to amend R.61-79 to reinsert a state requirement under 61-79.270 Subpart B Permit Application, at 270.10 - General Application Requirements. This state requirement calls for a site-specific inspection checklist for use in compliance inspections. This requirement was overwritten in the process of adopting a federal initiative on Final Standards for Hazardous Waste Combustors, replacing 270.10(l) with a different federal requirement. Upon review, the Department is proposing to retain the previous requirement for the checklist and reinsert it into the regulations. Since the Federal Rule replaced 270.10(l), the checklist requirement will be reinserted at 270.10(m).

South Carolina adopted the Federal Manifest Rule effective February 23, 2007. This rule requires a national manifest for shipping of hazardous waste. At the time of adoption, the Department chose to adopt the requirements by incorporating them by reference in R.61-79 as presented in the *Federal Register*, rather than include the actual text of them in the regulation. The Department is proposing to amend R.61-79 by replacing the reference and inserting the actual federal language into the state regulation to include the requirements for obtaining and filing official copies of the national manifest. This will provide specific wording in R.61-79 that will provide inspectors a means to assure the manifests meet federal standards.

Legislative review of these amendments will be required.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110(2) and 38-43-106

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-50, Continuing Insurance Education. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on December 30, 2008, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-50, Continuing Insurance Education. The amendments to Regulation 69-50 will ensure that the Department complies with uniformity standards of the National Association of Insurance Commissioners (NAIC) and will clarify producer education guidelines.

The proposed amendment of Regulation 69-50 will require legislative review.

12 DRAFTING

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110(2), 38-43-80(B), 38-45-50, 38-47-40, 38-48-60, and 38-49-20

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-33, Dates for Payment of Annual License Fees for Insurance Agents, Brokers, Adjusters, Agencies, and Motor Vehicle Damage Appraisers. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on December 30, 2008, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-33, Dates for Payment of Annual License Fees for Insurance Agents, Brokers, Adjusters, Agencies, and Motor Vehicle Damage Appraisers. The amendments to Regulation 69-33 will spread out License Renewal Dates over Odd/Even Years. The amendments will allow the department to be uniform with the National Association of Insurance Commissioners (NAIC) standards. This will benefit South Carolina Producers to have their state of domicile in compliance with national standards which will speed up their licensing process in other states.

The proposed amendment of Regulation 69-33 will require legislative review.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110(2) and 38-21-300

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-14, Insurance Holding Company Systems. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on December 30, 2008, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-14, Insurance Holding Company Systems. The amendments to Regulation 69-14 will update and clarify the procedure for filing the statements required by S. C. Code Sections 38-21-60, 38-21-70, 38-21-140, 38-21-150 and 38-21-250.

The proposed amendment of Regulation 69-14 will require legislative review.

DEPARTMENT OF INSURANCE

CHAPTER 69

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

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-46, Medicare Supplement Insurance. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on December 30, 2008, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-46, Medicare Supplement Insurance. The amendments to Regulation 69-46 will bring the regulation into compliance with Federal Law.

The proposed amendment of Regulation 69-46 will not require legislative review pursuant to S.C. Code Ann. Section 1-23-120(H)(1) which provides that General Assembly review is not required for regulations promulgated to maintain compliance with federal law. Public Law 110-175, The Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) and Public Law 110-223, The Genetic Information Nondiscrimination Act of 2008 (GINA), each require revisions to the NAIC model regulation upon which South Carolina Regulation 69-46 is based and established strict deadlines for state adoption of the revisions in order for the states to continue to regulate the Medigap market.

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110(2) and 38-77-530

Notice of Drafting:

The South Carolina Department of Insurance proposes to amend Regulation 69-63, South Carolina Reinsurance Facility Recoupment. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on December 30, 2008, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-63, South Carolina Reinsurance Facility Recoupment. The amendments to Regulation 69-63 will address any excess recoupment collected in the South Carolina Reinsurance Facility run off.

The proposed amendment of Regulation 69-14 will require legislative review.

14 DRAFTING

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10, 38-3-110 and 38-13-300

Notice of Drafting:

The South Carolina Department of Insurance proposes to repeal in its entirety Regulation 69-35, Valuation of Investments Regulation. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on December 30, 2008, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to repeal in its entirety Regulation 69-35, Valuation of Investments Regulation. S.C. Code Ann. Section 38-13-80 is now the standard for valuing and admitting assets. The references in Regulation 69-35 to Chapter 11 of Title 38 are obsolete as Chapter 11 of Title 38 was repealed by 2002 Act No. 319, Section 3, eff June 3, 2002.

The proposed repeal of Regulation 69-35 will require legislative review.

Document No. 4039
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
 CHAPTER 27
 Statutory Authority: 1976 Code Section 46-9-40

27-137. Designation of Asian Citrus psyllid as plant pest and quarantine

Preamble:

The State Crop Pest Commission proposes to designate the Asian Citrus psyllid as a plant pest and to impose quarantines on state geographical areas in which the pest is found. Asian Citrus psyllid (ACP), *Diaphorina citri* Kuwayama, has been discovered in Charleston County, Beaufort County and Colleton County. It is the primary vector for citrus greening, also called Huanglongbing or yellow dragon disease, which is one of the more serious diseases of citrus. Citrus greening disease is a threat to the US citrus industry and has been found throughout Florida and in Orleans Parish, Louisiana. The proposed actions will focus on the most effective method of preventing the introduction of the disease into the State by giving greater effect to state and federal quarantines at point of origin

The Notice of Drafting was published in the State Register on September 26, 2008. No comments were received.

Section-by-Section Discussion

27-137. Designation of Asian Citrus psyllid as plant pest and quarantine.

1. This section designates the Asian Citrus psyllid (hereinafter, ACP) *Diaphorina citri* Kuwayama as a plant pest.
2. This section delineates the regulated areas subject to the quarantine.
3. This section specifies the regulated articles which are hosts for ACP.
4. This section delineates treatment methods for interstate and intrastate movement of regulated articles from regulated areas, and further provides for compliance agreements, inspections and cancellations of compliance agreements.

Notice of Public Hearing and for Public Comment:

Interested members of the public and the regulated community are invited to make oral or written comments on the proposed changes to the regulation at a public hearing scheduled to be held in Conference Room 1, Center for Applied Technology, 511 Westinghouse Road, Pendleton, SC 29670 on Thursday, January 8, 2009 at 10:30 AM. Should such hearing not be requested pursuant to Section 1-23-110(a)(3) on or before close of business on January 5, 2009, such hearing will be canceled without further notice.

Interested parties are also invited to submit written comments to the proposed amendments by writing to Christopher Ray, Ph. D., Department of Plant Industry, 511 Westinghouse Road, Pendleton, SC 29670. To be considered comments must be received no later than close of business on January 5, 2009.

Preliminary Fiscal Impact Statement:

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

16 PROPOSED REGULATIONS

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) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: 27-137. Designation of Plant Pest and Quarantine.

Purpose: Regulation 27-137 is a new regulation to provide for the quarantine of an important plant pest, harmful to the citrus industry.

Legal Authority: The legal authority for Regulation 27-137 is Section 46-9-40, South Carolina Code of Laws.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the State Register. The proposed amendments will be implemented by providing copies to the regulated community and media notices to the general public.

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

The proposed regulation will provide a greater degree of protection to the agricultural community by focusing efforts at preventing the further introduction and spread of ACP into the State.

DETERMINATION OF COSTS AND BENEFITS:

Agriculture will benefit if ACP is not brought into South Carolina, and if the regulated articles exported from quarantined areas is properly treated prior to movement.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation should allow a greater probability that ACP will not be introduced into or spread within this State.

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

If this regulation is not adopted, there is the possibility that ACP will spread within this State and adversely affect the export of plant materials.

Statement of Rationale:

This regulation is necessary to enhance the ability of the Commission to prevent the introduction of ACP into the State, to enable proper treatment of infected material, to enhance the exportability of the regulated material and to minimize administrative burdens on nursery operators.

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. 4040
DEPARTMENT OF CONSUMER AFFAIRS
 CHAPTER 28

Statutory Authority: 1976 Code Sections 37-7-101 et seq., 37-7-112, 37-7-115 and 37-7-121

28-700. Consumer Credit Counseling Requirements

Preamble:

The Department proposes to amend and modify Regulation 28-700. The General Assembly passed legislation in 2005 requiring the licensing of credit counseling organizations and credit counselors. These organizations and counselors provide credit counseling services to consumers, which include: distributing funds to creditors; offering to improve credit scores, histories, or ratings; and/ or negotiating with creditors to reduce a consumer's obligations.

The statute, under 1976 Code Section 37-7-112, requires the Department to set the fees a credit counseling organization can charge a consumer. Section 37-7-115 also permits the Department to regulate events which must be reported by a licensee. Section 37-7-121 allows the Department to promulgate regulations necessary to effectuate the purposes of the Chapter.

The proposed regulation states the fees credit counseling organizations licensed under 1976 Code Section 37-7-101 et seq. may charge the consumers. The regulation also addresses the process for persons to become sponsors of and get approval for continuing professional education course. Record keeping and reporting requirements are also addressed.

The proposed regulation will require legislative review.

Notice of Drafting for the proposed regulation was published in the State Register on August 22, 2008. Comments were solicited for consideration in drafting the proposed regulation.

Section-by-Section Discussion

- 28-700A. Definitions.
- 28-700B. The Department proposes the fees that a credit counseling organization or credit counselor may charge a consumer. Fees are based on the services contracted for.
- 28-700C. Sets the requirements for persons other than the Department who are seeking to sponsor continuing professional education courses to licensees for the purpose of such licensees satisfying the requirements of S.C. Code Ann. Section 37-7-105. Potential sponsors must submit an application compliant with this Regulation as well as course approval applications before a licensee can receive credit for attending a course.
- 28-700D. Specific consumer and business records must be maintained for a period of at least three years, dependant on record type. Records must be kept current and available to the Department for examination.
- 28-700E. Credit counseling organizations are required to report specific events within ten days of the occurrence. This includes the institution of a government or civil action against the licensee.

18 PROPOSED REGULATIONS

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons should submit comments to Carri Grube Lybarker, Staff Attorney, South Carolina Department of Consumer Affairs, P.O. Box 5757, Columbia, S.C. 29250-5757, by December 31, 2008. Should a public hearing be requested, the hearing will be held at the Department on January 6, 2009 at 2:00 p.m. in the Conference Room, Third Floor, 3600 Forest Drive, Columbia, S.C. 29204.

Preliminary Fiscal Impact Statement:

The Department of Consumer Affairs estimates the costs incurred by the State in complying with the proposed regulation will be approximately \$0. Licensing fees are intended to offset administrative costs to the State and are based on experience with similar industries.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: Consumer Credit Counseling Requirements.

Purpose: The proposed regulation will set the fees consumer credit counseling organizations may charge consumers. Continuing professional education requirements regarding outside sponsors of courses, Record keeping requirements and reporting requirements are also included.

Legal Authority: 1976 Code Section 37-7-101 et seq., particularly Sections 37-7-112, 37-7-115 and 37-7-121.

Plan for Implementation: Administrative.

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

The regulation is intended to set the fees organizations licensed under S.C. Code Section 37-7-101 et seq. can charge consumers. Abuse has occurred in the industries covered by the Consumer Credit Counseling Act with respect to excessive consumer fees. The intent of setting fees is to protect the consumer.

Allowing persons other than the Department to offer continuing professional education and maintain a streamlined process for department and panel approval of the sponsor and their courses is imperative to the licensee completion of the continuing professional education requirement delineated in S.C. Code Ann. Section 37-7-105. This is especially important to out-of-state licensees who are often unable to attend Department sponsored courses.

Record keeping requirements, including the delineation of items required to be maintained for a specified time and availability to the Department are necessary for the Department to ascertain a licensee's compliance with S.C. Code Ann. Sections 37-7-101 et seq.

Requiring specific events to be reported by a licensee enables the Department to determine if the conditions of the organization, its owners, members, officers, directors and employees remain the same as when initially licensed and subsequent renewals. Reporting also acts as a notification to possible violations of S.C. Code Ann. Sections 37-7-101 et seq. and/or a pattern or practice of an organization, its owners, members, officers, directors or employees.

DETERMINATION OF COSTS AND BENEFITS:

Licensing fees assessed through S.C. Code Section 37-7-101 et seq. are at levels intended to offset the costs of administering the regulation.

UNCERTAINTIES OF ESTIMATES:

Estimates are based on agency experience in regulating the industry. Should the number of filings vary greatly, estimates could change. However, since costs to the State should be covered by the licensing fees set in S.C. Code Section 37-7-101 et seq., impact should be minimal.

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:

The South Carolina Consumer Credit Counseling Act specifically provides for the Department to set the fee structure for licensees. The Act also permits and/or contemplates the drafting of reporting, recordkeeping and continuing professional education course approval requirements. Such modifications and additions are necessary to effectuate the consumer protection purpose of the law and to guide businesses with compliance.

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. 4041
DEPARTMENT OF LABOR, LICENSING AND REGULATION
COMMISSIONERS OF PILOTAGE
CHAPTER 136
Statutory Authority: 1976 Code Sections 40-1-70 and 54-15-140

- 136-013. Pilot and Apprentice Age Limitations
- 136-020. Short Branch Qualification
- 136-070. Pilot Functions and Responsibilities
- 136-099. Penalties

Preamble:

The Department of Labor, Licensing and Regulation, Commissioners of Pilotage, proposes to revise Regulations 136-013, 136-020, 136-070, and 136-099 by updating the regulations in conformance with 2006 Act 237.

Section by Section Discussion

136-013. Pilot and Apprentice Age Limitations.

Deletes “sixty-five” and replaces with “seventy” in recognition of increased life expectancy and better health care in the Charleston area.

20 PROPOSED REGULATIONS

136-020. Short Branch Qualification.

A.-B. No substantive changes.

C. Clarifies tonnage and feet requirements in conformance with the current practice, and in recognition that flexibility is needed to enable short branch pilots to gain experience on the actual drafts and tonnages of vessels in the harbor.

D.-E. No substantive changes.

136-070. Pilot Functions and Responsibilities.

A.-E. No substantive changes.

F. Deletes "eight" and replaces with "eleven", in recognition of non commercial vessel routes and trends.

G.-H. No substantive changes.

136-099. Penalties.

A.-B. No substantive changes.

C. Adds reference to Title 40, Chapter 1, in conformance with the other legislation affecting the Commission and the Department of Labor, Licensing and 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 at the Administrative Law Court at 11 a.m. on Monday, January 12, 2009. Written comments may be directed to Randall L. Bryant, Administrator, Commissioners of Pilotage, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., on December 29, 2008.

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:

Purpose: The Department is updating the regulations by removing outdated language.

Legal Authority: 1976 Code Sections 54-15-140 and 40-1-70.

Plan for Implementation: These regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the regulations and post the regulations on the agency's web site.

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

The regulations will establish enhanced communication between licensees and the public.

DETERMINATION OF COSTS AND BENEFITS:

The standardized format of the regulations will assist other regulatory entities with locating requirements within the regulations. There will be no cost increases to the State or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning these regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effects on the environment or public health.

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

Implementation of these regulations will allow improvement in communication to the public.

Statement of Rationale:

Regulations 136-013, 136-020, 136-070, and 136-099 are being amended in conformance with 2006 Act 237 and public comment.

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. 4042

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-96, 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

123-40. Wildlife Management Area Regulations

123-51. Turkey Hunting Rules and Seasons

123-52. Either-sex days for Private Lands in Game Zones 1-6

123-55. Regulations for the Use of Fertility Control or Other Chemical Substances in Wildlife

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:

Section-by-Section Discussion

(B) Game Zone 2 – adds additional either-sex deer hunts for muzzleloaders.

(G) Francis Marion National Forest – deletes restriction on hog hunting only during deer hunts and special hog hunts.

(H) Moultrie – allows shooting across a road during gun hunts for deer if hunter is in an elevated stand.

(I) Santee Cooper WMA – establishes data card requirements for hunters, allows camping during deer hunts, adds 1 week archery and muzzleloader deer hunt, adds Friday raccoon hunts.

(J) Webb WMA – adds two quail hunt days, establishes allowable weapons for still hog hunts.

(L) Santee Delta WMA – establishes sign in and sign out requirements for deer and hog hunts.

(P) Pee Dee Station Site WMA - establishes data card requirements for hunters.

(R) Santee Coastal Reserve – establishes sign in and sign out requirements for deer hunts.

22 PROPOSED REGULATIONS

- (S) Other Small WMAs - allows the use of individual antlerless deer tags on unnamed WMAs in Game Zones 3-5.
- (T) Woodbury WMA – establishes allowable weapons for still hog hunts.
- (W) Marsh WMA - establishes special youth and mobility impaired hunt area, establishes allowable weapons for still hog hunts.
- (X) Hamilton Ridge WMA – adds archery to the muzzleloader season for deer, adds two quail hunt days and establishes allowable weapons for still hog hunts.
- (AA) Little Pee Dee River Complex WMA – adds raccoon season, establishes allowable weapons for still hog hunts.
- (BB) Great Pee Dee River WMA - establishes allowable weapons for still hog hunts, and establishes data card requirements for hunters.
- (CC) Hickory Top WMA – establishes data card requirements for hunters.
- (DD) Palachucola WMA - establishes sign-in and sign-out requirements for deer hunters, adds 6 days to the archery season and adds a 3-day muzzleloader and archery deer season in December, adds two days quail hunting and establishes allowable weapons for still hog hunts.
- (EE) St. Helena Sound Heritage Preserve WMA – Otter Island – establishes raccoon hunting season.
- (FF) Waccamaw River Heritage Preserve WMA – establishes special hog hunts with dogs.
- (HH) Canal WMA – re-files existing regs to establish check and reporting requirements under new authority and adds additional quail hunt days.
- (OO) Santee Dam WMA – removes shotgun only restriction for small game hunting.
- (UU) Wee Tee WMA – establishes raccoon hunting season.
- (VV) Bonneau Ferry WMA – establishes an open quail hunting season in the place of draw hunts.
- (YY) Botany Bay Plantation WMA – new WMA, establishes seasons, methods and bag limits and special use restrictions and allows hogs to be harvested during any scheduled hunt.
- (ZZ) Old Island Heritage Preserve WMA – new WMA, establishes an archery deer season.
- 2.6 clarifies that salt and minerals are not considered bait.
- 2.7 adds requirement for stand removal after the deer season.
- 2.11 adds possess to alcohol restriction and clarifies application to an individual actually participating in a hunt.
- 3.1 deletes reference to crossbows as being unlawful during archery only seasons.
- 3.2 corrects this regulation to conform with crossbow changes in S.691.
- 4.2 allows antlerless deer harvest by archery in Game Zones 1 and 2 and establishes antlerless deer harvest for mobility impaired and youth deer hunts sanctioned by DNR and allows antlerless deer harvest during the statewide youth deer hunt day.
- 5.2 adds “bear” to regulation.
- 5.4 grammar and punctuation correction to existing regulation.
- 7.1 clarifies the international orange requirement for small game hunters during big game hunts.
- 10.8 changes wording from “hunting” to “public” access (Sandy Beach and Bonneau Ferry).
- 10.9 changes wording from “hunting” to “public” access (Broad River Waterfowl Area).
- 10.10 revises the date for public access to certain impoundments.
- 10.14 adds four WMAs to allow am only waterfowl hunting.
- 10.16 adds two new waterfowl areas.
- 10.21 adds Russell Creek Waterfowl Area to data card requirement.
- 10.22 defines the waterfowl area boundaries within Woodbury WMA.
- 123-51 adds additional turkey hunting days on three WMAs, increases the limit on two WMAs, adds hunter check requirements on two WMAs, allows shotgun hunts on one previously archery only area and establishes turkey seasons on two new WMAs.
- 123-52 deletes previous restrictions and establishes deer either-sex days for private lands statewide.
- 123-55 clarifies the use of fertility control or other chemical substances on wildlife and exempts licensed pesticide applicators using registered pesticides in the control of unprotected species of birds from the permit requirement.

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 January 16, 2009, 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.

The addition of Regulation 123-55 will provide for the continued use, by licensed pesticide applicators, of pesticides registered for use in the control of birds not protected by South Carolina law. Other than allowing these applicators to continue to operate as they have in the past, no fiscal impact is expected.

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).

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. Under Section 50-11-96 of the S.C. Code of Laws, the Department of Natural Resources is authorized to promulgate regulations to implement and regulate the provisions of this section.

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.

DETERMINATION OF NEED AND REASONABLENESS OF THE 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.

Passage of S.691, commonly called the Game Zone conforming and cleanup bill, removed Department authority over deer on private lands in Game Zones 1 and 2. Certain aspects of either-sex deer hunting were set by Department Regulation pursuant to Section 50-11-310 which was amended by S.691. Specifically, archers in Game Zones 1 and 2 have historically been allowed to take either-sex of deer during any season open to deer hunting. This amendment will re-establish this provision and clarify the scheduling of either-sex days on private lands statewide pursuant to authority granted under 50-11-390 related to antlerless deer.

24 PROPOSED REGULATIONS

The addition of Regulation 123-55 is necessary due to the passage of H.4952 (SC Code Section 50-11-96) relating to the use of fertility control or other chemical substances in wildlife. This new law prohibits the introduction of fertility control or other chemical substances into wildlife without a permit from the Department. Licensed pesticide applicators that use registered pesticides in the control of birds not protected by South Carolina law (feral pigeons, English sparrows, and European starlings) will not be required to be permitted.

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.

The addition of Regulation 123-55 will provide for the continued use, by licensed pesticide applicators, of pesticides registered for use in the control of birds not protected by South Carolina law. Other than allowing these applicators to continue to operate as they have in the past, no fiscal impact is expected.

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.

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.

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.

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 provide 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.

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. 4043
WORKERS' COMPENSATION COMMISSION
 CHAPTER 67
 Statutory Authority: 1976 Code Section 42-3-30

- 67-202. Words and Phrases, Defined.
- 67-203. Official Forms and Documents.
- 67-205. Filing with the Commission, Defined.
- 67-206. Filing a Claim.
- 67-207. Requesting a Hearing, Claimant.
- 67-211. Service of Forms and Documents.
- 67-213. Service of Orders, Hearing Notices, and Review Hearing Notices.
- 67-401. Designation of Authorized Recipient of Service and Other Demands.
- 67-405. Employers and Insurance Carriers, Proof of Compliance.
- 67-406. Reporting Insurance Policies with Effective Dates on or after July 1, 1989.
- 67-407. Insurance Policies with Effective Dates before July 1, 1989.
- 67-408. The State Workers' Compensation Fund, Proof of Compliance.
- 67-409. Duplicate or Dual Insurance Coverage.
- 67-410. Information Required When Filing Proof of Compliance.
- 67-411. Employer's Report of Injury, Form 12A.
- 67-412. Employer's Report of Injury, Form 12M.
- 67-415. Documentation of Insurance.
- 67-416. Electronic Data Interface.
- 67-603. Employer's Answer to a Request for Hearing, Time for Filing and Service.
- 67-607. Hearing Notice.
- 67-609. Withdrawing a Request for Hearing.
- 67-701. Requesting Commission Review of the Hearing Commissioner's Decision.
- 67-709. Commission Review, Procedure.
- 67-712. Requesting Higher Court Review.
- 67-801. Settlement of the Claim, General.
- 67-802. Settlement, Form 16.
- 67-803. Settlement by Agreement and Final Release.
- 67-804. Informal Conference.
- 67-805. Third Party Settlements.
- 67-1001. Parties, General.
- 67-1101. Total or Partial Loss or Loss of Use of a Member, Organ, or Part of the Body.
- 67-1204. Reporting Attorneys Fees for approval.
- 67-1301. Medical Reports.
- 67-1307. Rehabilitation Professionals.
- 67-1308. Communication Between Parties And Health Care Providers.
- 67-1402. Unqualified Self-Insured Employer, Prosecution.

Preamble:

The Commission proposes to amend and add regulations to Chapter 67 to reflect changes in Title 42 necessitated by the approval of Act 111 on June 25, 2007. The amendments, deletions, and additions further reflect grammatical changes, the ability to receive and to serve forms and documents electronically, changes in electronic data interchange procedures, and additions in attorney fee petition procedures.

Section-by-Section Discussion:

R.67-202A(1) is amended to more accurately describe the Accident Reporting Division.

26 PROPOSED REGULATIONS

R.67-202A(4) is amended to make a grammatical change.

R.67-202A(5) is amended to describe only the Compliance Division and its duties.

A new R.67-202A(6) is added to describe the Coverage Division and its duties.

R.67-202A(6), R.67-202A(7), R.67-202A(8), R.67-202A(9), R.67-202A(10), R.67-202A(11), R.67-202A(12), and R.67-202A(13) will be renumbered accordingly.

Newly renumbered R.67-202A(11) is amended to reflect the proper name of the Medical Services Division and the correct names of the provider manuals used.

Newly renumbered R.67-202A(12) is amended to reflect a change in the name of the Public Assistance Division to the Public Affairs Division and a grammatical correction.

The original R.67-202A(14) is deleted in its entirety.

R.67-202A(18) is added.

R.67-203A is amended to reflect changes in duplication of forms.

R.67-203B is amended to reflect the availability of the Commission's forms on the web site.

A new form, Form 14B, becomes R.67-203B(22) and current R.67-203B(22) becomes R.67-203B(23). The current subparagraph (23) becomes (24), the current (24) is renumbered to (25) and the current (25) is renumbered to (27).

A new form, Form 16A becomes R.67-203B(26). Current R.67-203B(26) is renumbered as R.67-203B(28). The subsequent subparagraphs are renumbered through R.67-203B(38).

New Form 39 is inserted as R.67-203B(39). All subsequent subparagraphs through R.67-203B(45) are renumbered.

Current R.67-203B(46) and R.67-203B(48) are deleted.

R.67-203B(46) through R.67-203B(52) are renumbered.

R.67-203(53) R.67-203B(54), and R.67-203B(55) are deleted.

R.67-205B is amended to allow forms and documents to be delivered to the Commission electronically.

R.67-206B(2) is amended to reflect a change in filing a claim.

R.67-206B(3) is deleted.

R.67-206B(4) is renumbered as R.67-206B(3).

R.67-206C is amended to reflect the number of items listed.

Punctuation is corrected in R.67-206C(12).

A new R.67-206C(13) is added.

Current R.67-206C(13) is amended to become R.67-206D and to delete reference to the Claims Department.

Current R.67-206C(14) is amended to become R.67-206E and to delete reference to the Claims Department.

R.67-207A(5) is added as an additional requirement for requesting a hearing.

R.67-211A(1), R.67-211A(2), R.67-211B(1), and R.67-211C(1) are amended to allow electronic service of forms and documents.

R.67-211C(3) has been added.

R.67-213A is amended to permit service of orders electronically.

R.67-213B is amended to allow Hearing Notices to be served electronically. It is further amended to state all unrepresented claimants and uninsured employers shall be served by first class mail.

R.67-401A is amended to require the designation of one address and one electronic address in underwriting matters.

A new R.67-401B is added.

Current R.67-401B is renumbered R.67-401C.

Newly renumbered R.67-401C is amended to require insurance carriers, self-insured employers, and self-insurance funds to designate an electronic address and deletes reference to the Coverage and Compliance Department.

Current R.67-401C is renumbered R.67-401D.

Newly renumbered R.67-401D is amended to delete the designation date and reference to the Coverage and Compliance Department.

New R.67-401E, R.67-401F, and R.67-401G are added.

R.67-405B is amended to add the Commission's "authorized agent." This is added to reflect the possibility NCCI might not continue to be the Commission's agent.

R.67-405B(1) is amended to correct a grammatical error, to delete the reference to R.67-406, and to add a reference to R.67-416.

R.67-405B(2) is amended to add Accident to State Fund, to delete the reference to R.67-408, and to add a reference to R.67-416.

R.67-405C is deleted in its entirety.

R.67-405D is deleted in its entirety.

R.67-405F is deleted in its entirety.

Current R.67-405E and R.67-405G become R.67-405C and R.67-405D.

Newly renumbered R.67-405C is amended to add "authorized agent" and changes regarding cancellation of or failure to renew insurance notification.

28 PROPOSED REGULATIONS

Newly renumbered R.67-405C(1) is amended to delete references to R.67-406 and R.67-407, to add a reference to R.67-416, and to clarify termination date.

Newly renumbered R.67-405C(2) is amended to add Accident to State Fund, to delete reference to R.67-408, to add a reference to R.67-416, and to clarify termination date.

Newly renumbered R.67-405D is amended to make a grammatical correction and to add Accident to State Fund.

R.67-406 is deleted in its entirety.

R.67-407 is deleted in its entirety.

R.67-408 is deleted in its entirety.

R.67-409B(1) is amended to delete reference to R.67-406, R.67-407, and R.67-408.

R.67-410 is deleted in its entirety.

R.67-411A(1) is amended by deleting "in writing."

R.67-411C(1) is amended by deleting "annually."

R.67-411C(1), R.67-411C(2), R.67-411C(3), and R.67-411D are amended by deleting "'s Accident Reporting Division."

R.67-412 is rewritten to reflect changes to the 12M system.

R.67-415A is amended by adding R.67-415A(1) and R.67-415A(2) to reflect changes in the procedure for documenting insurance coverage.

R.67-416A is amended by adding the State Accident Fund and by deleting the reference to January 1, 1998.

R.67-416B and R.67-416D are deleted.

Current R.67-416C is renumbered R.67-416B and allows the assessment of fines for failure to properly follow electronic interchange standards.

R.67-603E is added to reflect additional requirements for processing a Form 51.

R.67-607C is added to allow hearing notices to be issued electronically.

R.67-609A(2) is amended to allow a notice of withdrawal and/or removal from the docket to be sent electronically.

R.67-701A is amended to require the original and three copies of the Form 30.

R.67-709B is amended to reflect a change in the manner of panel assignment for appellate cases.

R.67-709D(2) is a grammatical correction.

R.67-712A and R.67-712B are added to require notice to the Commission of appeals to a higher court and to require copies of all orders be sent to the Commission.

R.67-801A is amended to add Form 16A.

R.67-801B is a grammatical correction.

R.67-801D is amended to add Form 16A and to reflect a change in procedure.

R.67-801F is added to reflect a procedural change.

R.67-802 is amended to add Form 16A to the title.

R.67-802A and R.67-802A(1) are amended to add Form 16A.

R.67-802A(1)(a) is amended to add Form 14B.

R.67-802A(2), R.67-802A(2)(a) and R.67-802A(2)(d) are amended to add Form 16A. R.67-802A(2)(a) further adds an additional requirement for the employer's representative.

R.67-802A(2)(b) and R.67-802A(2)(c) are amended to reflect grammatical corrections.

R.67-802A(3), R.67-802A(3)(a), R.67-802A(3)(b), and R.67-802A(3)(c) are added to reflect changes in procedure.

R.67-803A(1) through R.67-803A(5) are amended to reflect grammatical changes.

R.67-803B, R.67-803B(1), and R.67-803B(1)(c) are amended to reflect changes in settlements by agreement and final release if the claimant is not represented.

R.67-803B(2), R.67-803B(2)(a), R.67-803B(2)(b) and R.67-803B(2)(c) are amended to reflect changes in settlements by agreement and final release if the claimant is represented.

R.67-803B(2)(d) and R.67-803B(2)(e) are deleted.

R.67-803C is amended to reflect changes in procedure for settlements by agreement and final release.

R.67-804A is amended to add the Form 16A.

R.67-804C(2)(a) through R.67-804C(2)(f) are renumbered to reflect the addition of different forms and to reflect changes in medical reports.

R.67-804C(2)(g) is added.

R.67-804D is amended to add Form 16A.

R.67-804F is amended to add Form 16A and a grammatical correction.

R.67-805A, R.67-805B, and R.67-805C are amended to reflect a change in procedure for third party settlements.

R.67-805D is added to further explain the new procedure for third party settlements.

R.67-1001A is amended to correct grammatical errors.

30 PROPOSED REGULATIONS

R.67-1001B is amended to delete “’s Coverage and Compliance Department” and to require the period of exposure be provided for each employer for each period of alleged exposure when requesting a coverage report.

R.1101C is amended to delete the number of weeks for total loss of the penis.

R.67-1204C is amended to require an Order accompany each Form 61 requesting attorney fee approval.

R.67-1204D(1), R.67-1204D(2), R.67-1204E(1), R.67-1204E(2), R.67-1204E(2)(a), R.67-1204E(2)(b), and R.67-1204E(2)(c) are deleted.

R.67-1204D, R.67-1204E, and R.67-1204F are amended to reflect changes in reporting attorney fees for approval.

R.67-1301C is added to denote a reference for maximum fees for search and duplication of medical records.

R.67-1307 is added to establish and regulate the role of rehabilitation professionals and other similarly situated professionals in workers’ compensation cases.

R.67-1308 is added to define communication between parties and health care providers.

R.67-1402A is amended by deleting “’s Accident Reporting Department.”

R.67-1402C(2), R.67-1402D(1), R.67-1402F, and R.67-1402F(2) are amended by deleting all references to the Form 62 and adding Compliance Agreement, if it was not in the text.

R.67-1402E is amended by deleting “Coverage and Compliance Department” and adding “Commission.”

R.67-1402F(4) is amended to correct a grammatical error.

R.67-1402F(6) is amended by deleting the reference to R.67-1403.

Notice of Public Hearing and Opportunity for Public Comment:

Should a public hearing be requested, the hearing shall be conducted at the South Carolina Workers’ Compensation Commission, 1612 Marion Street, Hearing Room, First Floor, Columbia, South Carolina, on January 5, 2009 at 10:00 a.m. Written comments may be directed to Janet Godfrey Griggs, Esquire, General Counsel, Post Office Box 1715, Columbia, South Carolina 29202-1715. Requests for a hearing should be made in writing and received by the Commission no later than December 29, 2008. Comments should be received no later than 5:00 p.m. on December 29, 2008.

Preliminary Fiscal Impact Statement:

The South Carolina Workers’ Compensation Commission estimates there will be no additional costs incurred by the State and its political subdivisions to comply with these proposed regulations.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATIONS: South Carolina Workers’ Compensation regulations.

Purpose: To amend and add regulations to Chapter 67 to reflect changes in Title 42 necessitated by the approval of Act 111 on June 25, 2007.

Legal Authority: South Carolina Code Section 42-3-30 requires the Commission promulgate all regulations necessary to implement the provisions of this title and consistent therewith.

Plan for Implementation: The proposed regulations will take effect upon approval by the General Assembly and publication in the State Register. The proposed amendments will be implemented by providing the regulated community a copy of the regulations on the Commission's website: www.wcc.sc.gov.

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

The proposed amendments, deletions, and additions further reflect grammatical changes, the ability to receive and to serve forms and documents electronically, changes in electronic data interchange procedures, and additions in attorney fee petition procedures.

DETERMINATION OF COSTS AND BENEFITS:

No additional costs will be incurred.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

To amend and add regulations to Chapter 67 to reflect changes in Title 42 necessitated by the approval of Act 111 on June 25, 2007.

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.

32 EMERGENCY REGULATIONS

Filed: November 12, 2008 8:30am

Document No 4037
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60, 59-67-20, 59-67-410 and 59-67-570

43-80 N. and T.2. Operation of Public Pupil Transportation Services

Emergency Situation:

On June 7, 2007, S.C. Code Ann. Section 59-67-108 (Supp. 2007) became law requiring the implementation of a multi-category School Bus Driver Certification program. A School Bus Driver Certification Study Committee was created to develop the required implementing regulatory language. The South Carolina Department of Education (SCDE) submitted amended regulatory language to the State Board of Education (SBE) on February 13, 2008; the SBE adopted the amended regulations on May 14, 2008. The SCDE immediately submitted the adopted regulations to the General Assembly. The revised School Bus Driver's Certification program is needed to assure that all school bus drivers are properly trained and tested to operate a school bus in order to adequately protect the safety of students transported. Promulgation of the regulations is necessary before this can be implemented. Emergency regulations must be promulgated to affect this important student transportation safety effort as quickly as possible.

Text:

43-80 N. and T.2. Operation of Public Pupil Transportation Services

N. The school bus driver certification program is established by the State Board of Education (SBE) and administered by the South Carolina Department of Education (SCDE) to qualify individuals to drive one or more of the numerous types of school buses. A school bus is a vehicle as defined in Sections 59-67-10 (2004) and 56-5-195 of the South Carolina Code. The school bus definition designates a Full-functional School Bus (FFSB) vehicle as a school bus vehicle that is equipped with all signage and lamps to meet the requirements of Section 56-5-2770 and meets the National School Bus chrome yellow color requirements in Section 59-67-30, thus allowing it to control traffic when loading and unloading students. The school bus definition also designates the Multi-functional School Activity Bus (MFSAB) vehicle as school bus vehicle that cannot control traffic because it lacks either signage or lamp requirements of Section 56-5-2770 or does not meet the National School Bus chrome yellow color requirements in Section 59-67-30. The vehicle's manufacturer passenger capacity rating has no effect on the vehicle's status as a school bus.

An individual driving a school bus, as defined in this regulation, must have a valid SCDE school bus driver's certificate in his or her possession when transporting or intending to transport preprimary, primary, or secondary students to or from school, and school related activities, or children to and from childcare or related activities.

The SBE directs the SCDE to establish a school bus driver certification program that provides for the following three (3) separate and distinct school bus driver's certificate categories.

Certificate A—Authorizes an individual to operate any school bus owned or leased by the State, a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate B—Authorizes an individual to only operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate C—Authorizes an individual to operate a school bus owned or leased by a private school or a childcare facility when the school bus is an FFSB. Additionally, the individual is authorized to operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate categories B and C are divided into two sub classifications: commercial vehicles and non-commercial vehicles. The non-commercial classification is established to certify individuals to only operate a school bus that is not classified as a Commercial Motor Vehicle by the South Carolina Department of Motor Vehicles (SCDMV).

In order to obtain any one of the SCDE School Bus Driver's Certificates, either an A, B, or C, an individual seeking certification or renewal must successfully complete all requirements established by this regulation and the related tests of the SCDE and SCDMV. Certificates are only issued by the SCDE.

The SCDE School Bus Driver Certification Program includes requirements that are common to all three (3) certificate categories plus requirements that are unique to a driver certificate category.

The common requirements that all drivers must satisfy for issuance and renewal of an SCDE School Bus Driver's Certificate are as follows.

1. Driver candidates must not have or have had in the past twelve (12) months more than four (4) points against his/her driver license or driving Motor Vehicle Record (MVR).

2. Driver candidates shall successfully complete the SCDE School Bus Driver's Classroom Training Program.

3. Driver candidates shall have a physical examination administered by a qualified medical examiner; the driver must pass the examination every two years, or more frequently if directed by the medical examiner. The physical examination shall be administered using an "SCDE Medical Examination Report for Commercial Driver Fitness Determination" form provided by the South Carolina Department of Education or the United States Department of Transportation "Medical Examination Report" form. The driver candidate must provide the certificate testing administrator his or her qualifying Medical Examination Report prior to taking the school bus driver physical performance test and the commercial driver's license skills test. The school bus driver candidate must provide a copy of the qualifying Medical Examination Report to his or her employer. An employer may require additional physical examinations as the employer determines to be appropriate. The State assumes no responsibility for the cost incurred by the employer or driver for the physical examinations required by this regulation.

4. Driver candidates shall successfully pass the SCDE School Bus Driver Physical Performance Tests.

5. Driver candidates shall successfully complete a minimum of 10 hours of SCDE Behind-the-Wheel Road Skills Training, for initial issuance only.

6. Driver candidates shall pass the SCDE Behind-the-Wheel Road Skills Examination.

7. Drivers must show proof that they are covered by and will continue to be covered by a substance abuse program. The program must comply with state and Federal laws requiring drivers to participate in a drug and alcohol testing program encompassing at a minimum: (1) a substance abuse policy; (2) a substance abuse education program; (3) substance abuse testing (including pre-employment, reasonable suspension, post-accident, and random selection testing); and (4) a substance abuse referral assistance program. The substance abuse testing program shall comply with the U. S. Department of Transportation Regulation, Title 49, Chapter III, Section 382 et al., and Federal Highway Administration for testing drivers of commercial vehicles.

8. The driver candidate must satisfy the above common requirement items 3 through 7 within one hundred and eighty (180) days after successfully completing item 2.

In addition to the above eight common requirements, certificate categories have unique requirements that a driver must satisfy before issuance and/or renewal of the SCDE School Bus Driver's Certificate.

1. Certificate-A requires the following.

a. The driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law necessary to operate a school bus commercial motor vehicle.

b. The driver must complete a minimum of ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

2. Certificate-B Commercial requires the following.

a. A driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law to operate a school bus type vehicle to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of SCDE approved in-service training annually to qualify for renewal.

3. Certificate-B Non-Commercial requires the following.

34 EMERGENCY REGULATIONS

a. A driver candidate must possess a valid Driver's License that meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of SCDE approved in-service training annually to qualify for renewal.

4. Certificate-C Commercial requires the following.

A driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law to operate a school bus type vehicle to qualify for issuance.

A driver must complete a minimum ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

5. Certificate C Non-Commercial requires the following.

a. A driver candidate must possess a valid Driver's License that meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

Drivers accumulating more than four (4) points after being issued an SCDE School Bus Driver's Certificate shall have the certificate suspended. If a certificated driver receives a ticket for Driving Under the Influence (DUI), the certificate shall be suspended, and if convicted of DUI, the driver's SCDE Certificate shall be revoked. The employer of the driver shall notify the SCDE within thirty (30) days of such excessive driver license points and DUI actions.

Driver candidates are subject to a South Carolina criminal background check that must be conducted by their employer before transporting students. The employer may require additional federal level security and criminal background checks.

The SCDE shall establish procedures to transition the existing SCDE single category school bus driver certification program to the new multi-category School Bus Driver's Certificate program. All drivers that have a valid SCDE school bus driver certificate, and are in good standing with SCDE in-service training requirements, will be converted to a School Bus Driver's Certification A. All drivers that have a valid SCDE school bus driver certificate, but have not completed the SCDE in-service training requirements, will be considered for conversion to a School Bus Driver's Certification B.

Drivers must be in compliance with these requirements on or before August 15, 2008.

T. Special Transportation Service

2. The school boat must be operated by an individual with the required U.S. Coast Guard Merchant Marine Officer, Master of Steam and Motor Vessels license.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-80 N. and T.2. Operation of Public Pupil Transportation Services.

Purpose: The revised School Bus Driver's Certification program is needed to assure that all school bus drivers are properly trained and tested to operate a school bus in order to adequately protect the safety of students transported. Promulgation of the regulations is necessary before this can be implemented. Emergency regulations must be promulgated to affect this important student transportation safety effort as quickly as possible.

Legal Authority: 1976 Code Sections 59-5-60, 59-67-20, 59-67-410 and 59-67-570.

Plan for Implementation: Emergency regulation will be effective upon filing with the Legislative Council.

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

The revised School Bus Driver’s Certification program is needed to assure that all school bus drivers are properly trained and tested to operate a school bus.

DETERMINATION OF COSTS AND BENEFITS:

N/A

UNCERTAINTIES OF ESTIMATES:

N/A

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

N/A

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

N/A

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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

123-40. Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas

Emergency Situation:

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Numbers 123-40. 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 continue until January 1 it is necessary to re-file these regulations as emergency.

Text:

(G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used buckshot only is permitted. On either-sex deer hunts with dogs, all deer must be checked in by one hour after legal sunset. On all still gun and muzzleloader either-sex hunts for all units, all does must be tagged

Total of 8 deer for all gun and muzzleloader hunts on the Francis Marion.

36 EMERGENCY REGULATIONS

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

Deer Archery	Aug. 15 - Sept. 30	2 deer per day, either-sex Sept. 15- 30. Hogs - no limit.
Still Gun Hunts	Oct 1 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, either-sex. Hogs no limit. Doe tags must be used except on county either-sex days.
Dog Hunts (Shotguns only, no still gun hunting)	Dec 6 Dec 12	2 deer per day, buck only, hogs no limit. 2 deer per day, either sex. Hogs no limit.
Youth only deer hunt with dogs.	Nov 15	2 deer per day, either-sex. Hogs no limit.

Requirements for youth same as statewide youth deer hunt day.

On the either-sex deer hunt with dogs (except youth only hunts) all deer must be checked in at Hellhole Check Station.

Waterhorn WMA

Deer Archery	Sept 24 - Oct. 15	2 deer per day, either-sex. Hogs no limit.
Muzzleloader	Oct 20-Nov 1	2 deer per day, either-sex. Hogs no limit. Doe tags must be used except on county either-sex days.
Still Gun Hunts	Aug 15-16 Sept 5-6, 12-13 Nov 14-15 Dec 1-6 Dec. 26 - Dec. 31	2 deer per day, buck only. hogs no limit. Doe tags must be used except on county either-sex days. 2 deer per day, either-sex. Hogs no limit.
Hog Hunts with dogs	Feb 7, 21	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

Deer

Seewee Special Use Area Archery (no dogs)	Sept 1 - Jan 1	2 deer per day, buck only, except either-sex Sept 15 – Jan 1.
Still Gun Hunts	Aug 15 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, except either-sex Sept 15 – Jan 1. 1. Hogs no limit. Doe tags must be used except on county either-sex days.
Dog Hunts (Shotguns only)	Sept 26 Nov 12-13, Dec 13, 26-27	2 deer per day, buck only. Hogs no limit.
	Nov 1	2 deer per day, either-sex. Hogs no limit.
Youth only deer hunt with dogs.	Oct 25	2 deer per day, either-sex. Hogs no limit.

Requirements for youth same as statewide youth deer hunt day.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Awendaw check station on Hwy 17 or Honey Hill Lookout Tower.

Still gun hunts only East of Hwy 17. Rifles allowed.

Hog Hunts	Feb 14, 28, Mar 7	No limit.
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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.

Northampton WMA

Deer

Still Gun Hunts	Aug. 15 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, except either-sex Sept 15- Jan 1. Hogs no limit. Doe tags must be used except on county either-sex days.
Dog Hunts (Shotguns only)	Sept 27 Oct 8-9, Nov 21, Dec 29	2 deer per day, buck only. Hogs no limit.
	Oct 18	2 deer per day, either-sex. Hogs no limit.

38 EMERGENCY REGULATIONS

Youth only deer hunt with dogs.	Jan 3	2 deer per day, either-sex. Hogs no limit.
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Requirements for youth same as statewide youth deer hunt day.

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at P&C Grocery or Anglers in Jamestown.

Santee WMA

Deer

Still Gun Hunts	Aug 15 - Jan. 1 except during scheduled dog drive hunts.	2 deer per day, buck only, except either-sex Sept 15 - Jan 1. Hogs no limit. Doe tags must be used except on county either-sex days.
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Dog Drive Hunts (Shotguns only)	Aug 29-30 Oct 22-23, Dec 5	2 deer per day, buck only. Hogs no limit.
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	Sept 20	2 deer per day, either-sex. Hogs no limit.
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Youth only deer hunt with dogs.	Oct 4	2 deer per day, either-sex. Hogs no limit.
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Requirements for youth same as statewide youth deer hunt day).

On either-sex deer hunts with dogs (except youth only hunts) all deer must be checked in at Bonneau Ferry entrance or M & B Alvin Community Mart.

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).

DESCRIPTION OF THE REGULATION:

Purpose: These regulations amend Chapter 123-40 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. Under Section 50-11-96 of the S.C. Code of Laws, the Department of Natural Resources is authorized to promulgate regulations to implement and regulate the provisions of this section.

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.

DETERMINATION OF NEED AND REASONABLENESS OF THE 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.

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 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.

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.

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.

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.

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.