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# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
THE LEGISLATIVE COUNCIL  
of the  
GENERAL ASSEMBLY

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

# ***SOUTH CAROLINA STATE REGISTER***

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

## **STYLE AND FORMAT**

Documents are arranged within each issue of the *State Register* according to the type of document filed:

**Notices** are documents considered by the agency to have general public interest.

**Notices of Drafting Regulations** give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

**Proposed Regulations** are those regulations pending permanent adoption by an agency.

**Pending Regulations Submitted to the General Assembly** are regulations adopted by the agency pending approval by the General Assembly.

**Final Regulations** have been permanently adopted by the agency and approved by the General Assembly.

**Emergency Regulations** have been adopted on an emergency basis by the agency.

**Executive Orders** are actions issued and taken by the Governor.

## **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

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## ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

## EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

## REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

## EFFECTIVE DATE OF REGULATIONS

**Final Regulations** take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

**Emergency Regulations** take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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# REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

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

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
<b>Committee Requested Withdrawal:</b>					
3166			SCDOT Chief Internal Auditor		Department of Transportation
3184			Restructuring ATF Regulations - Pyrotechnic Safety		LLR - Board of Pyrotechnic Safety

## 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](http://www.scstatehouse.net)

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		
<b>Committee Requested Withdrawal:</b>			
3166	SCDOT Chief Internal Auditor	Education and Public Works	Transportation
3184	Restructuring ATF Regulations - Pyrotechnic Safety	Labor, Commerce and Industry	Labor, Commerce and Industry

**Executive Order 2008-08**

**WHEREAS**, since September of 2007, Executive Orders 2007-16, 2007-19, 2007-20, 2008-02 and the directive contained in the letter dated November 14, 2007, have been issued by the Office of the Governor to the South Carolina Workers' Compensation Commission ("Commission"); and

**WHEREAS**, the Governor issued the above Executive Orders to ensure that the Commission faithfully adheres to the Workers' Compensation Act pursuant to Article IV, Section 15 of the South Carolina Constitution, which provides that "the Governor shall take care that the laws be faithfully executed;" and

**WHEREAS**, the Governor is satisfied that the Commission's interpretation of the Workers' Compensation Act as set forth in its October 25, 2007, *En Banc* Order is consistent with state statutes and South Carolina Supreme Court precedent; and

**WHEREAS**, the Governor has the right to request and obtain information and records under the Governor's authority granted in Article IV, Section 17 of the South Carolina Constitution, S.C. Code § 1-3-10, and Rose v. Beasley, 327 S.C. 197, 489 S.E.2d 625 (1997); and

**WHEREAS**, pursuant to S.C. Code § 42-3-80, the executive director of the Commission is charged with the duty to "[c]ompile all statistics and reports concerning the administration of workers' compensation laws and the disposition of claims related thereto;" and

**WHEREAS**, pursuant to S.C. Code § 1-23-140(3), administrative agencies shall "[m]ake available for public inspection all final orders, decisions and opinions except as otherwise provided by law."

**NOW, THEREFORE**, the Governor hereby orders the Commission, the Executive Director of the Commission, or any appropriate designee to produce to the Office of the Governor the Decisions and Orders of Single Commissioners and Orders of Appellate Panels, including all Orders with regard to attorneys' fees, in all contested cases arising under South Carolina Code Section 42-9-30. Such production shall be on a quarterly basis, but in no event shall any such production occur until the South Carolina Supreme Court has ruled on all claims pending in the matter of Governor Mark Sanford, Petitioner, vs. South Carolina Workers' Compensation Commission, *et al.*

**FURTHER**, this Order supersedes Executive Orders 2007-16, 2007-19, 2007-20, 2008-02 and the letters, forms and directives issued in conjunction with these executive orders.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 17th DAY OF JULY, 2008.**

**MARK SANFORD  
Governor**

#### **4 EXECUTIVE ORDERS**

##### **Executive Order No. 2008-09**

**WHEREAS**, Douglas McKown, York County Coroner, will resign effective August 13, 2008; and

**WHEREAS**, the Governor of the State of South Carolina is authorized to appoint a Coroner in the event of a vacancy pursuant to Sections 17-5-50 and 4-11-20 of the South Carolina Code of Laws, as amended; and

**WHEREAS**, Sabrina Helms Gast, residing at 1181 Orchard Drive, Fort Mill, South Carolina 29715, is a fit and proper person to serve as York County Coroner.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Sabrina Helms Gast as Coroner of York County until the next general election for this office and until her successor shall qualify.

This appointment shall be effective August 13, 2008.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 12th DAY OF AUGUST, 2008.**

**MARK SANFORD  
Governor**

##### **Executive Order No. 2008-10**

**WHEREAS**, the State of Texas has been impacted by Hurricane Ike and has requested assistance from the State of South Carolina under the terms of the Emergency Management Assistance Compact, as provided in Section 25-9-420 of the South Carolina Code of Laws; and

**WHEREAS**, the civil authorities in the State of Texas have requested the support of the South Carolina National Guard with disaster recovery; and

**WHEREAS**, the South Carolina National Guard is prepared to provide the personnel and equipment necessary to assist in the impending impacted area.

**NOW THEREFORE**, pursuant to the powers conferred upon me by the Constitution and Laws of the State of South Carolina, I hereby direct the Adjutant General to place on state duty and utilize South Carolina National Guard personnel and equipment requested through the Emergency Management Division and in consultation with the Governor's Office, to fulfill the mission in support of the State of Texas. National Guard personnel deployment and mission requirements should be coordinated through the Emergency Management Division in accordance with the Emergency Management Assistance Compact.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 15th DAY OF SEPTEMBER, 2008.**

**MARK SANFORD  
Governor**

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

## NOTICE

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication September 26, 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 Anderson County

Renovation for the replacement of an existing open 0.35T Magnetic Resonance Imaging (MRI) unit with a closed 1.5T MRI unit  
 AnMed Health Women's and Children's Hospital  
 Anderson, South Carolina  
 Project Cost: \$2,201,532

## Affecting Berkeley County

Construction to establish a fifty (50) bed acute care hospital through the transfer of 50 acute care beds from the bed need generate by Trident Medical Center to include a Magnetic Resonance Imaging (MRI) unit and a Computed Tomography (CT) scanner; the proposed facility is to be located adjacent to the current site of the Moncks Corner Medical Center at the intersection of Martin Luther King Drive and Highway 17A; the existing Moncks Corner Medical Center will be converted into a medical office building housing physician offices and clinics  
 Berkeley Medical Center  
 Moncks Corner, South Carolina  
 Project Cost: \$115,000,000

## Affecting Charleston County

Transfer of two (2) operating rooms (ORs) from Roper West Ashley Surgery Center to Roper St. Francis James Island Surgery Center for a total of three (3) ORs at Roper West Ashley and four (4) ORs at Roper St. Francis James Island Surgery Center  
 Roper St. Francis James Island Surgery Center  
 Charleston, South Carolina  
 Project Cost: \$1,387,221

## Affecting Georgetown County

Addition of one (1) open heart surgery suite and one therapeutic cardiac catheterization laboratory to the surgery department being constructed within the proposed replacement Georgetown Memorial Hospital  
 Georgetown Memorial Hospital  
 Georgetown, South Carolina  
 Project Cost: \$6,224,465

## Affecting Horry County

Construction of an outpatient diagnostic center to include the purchase and installation of a Magnetic Resonance Imaging (MRI) unit, Computed Tomography (CT) unit, Diagnostic Radiology equipment, Information Technology equipment, and Electrocardiogram (EKG) unit; the existing mammography, ultrasound and bone densitometry units will be relocated from the hospital's radiology department; the

## 6 NOTICES

proposed facility is to be located at the intersection of Singleton Ridge Road and Farrar Drive in the Rivertown Medical Park

Conway Medical Center  
Conway, South Carolina  
Project Cost: \$7,467,595

Affecting Spartanburg County

Addition of a second da Vinci Surgical System  
Spartanburg Regional Medical Center  
Spartanburg, South Carolina  
Project Cost: \$1,632,400

Establishment of the Regional Outpatient Center – North Grove through the acquisition of Suite 1500 at North Grove Diagnostic Center; establishment of Magnetic Resonance Imaging (MRI) services at the Village Hospital by the relocation of an existing modular MRI unit at the existing North Grove facility

Spartanburg Regional Medical Center – North Grove  
Spartanburg, South Carolina  
Project Cost: \$16,403,067

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning September 26, 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 Cherokee County

Addition of fourteen (14) nursing home beds which will not participate in the Medicaid (Title XIX) Program for a total of one hundred eleven (111) nursing home beds

Cherokee County Long Term Care Facility (Peachtree Centre)  
Gaffney, South Carolina  
Project Cost: \$158,671

Affecting Horry County

Addition of a 1.5T Magnetic Resonance Imaging (MRI) unit to a new medical office building (MOB) to be located at 210 Village Center Boulevard, Myrtle Beach, South Carolina

Strand Orthopaedic Consultants, LLC  
Myrtle Beach, South Carolina  
Project Cost: \$2,130,648

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

## NOTICE

## Development of Registration Permits:

The South Carolina Department of Health and Environmental Control (Department) proposes to develop "Registration Permits" applicable to similar sources as provided under S.C. Regulation 61-62.1, Section II (I). Registration permits developed shall specify compliance with all requirements applicable to the construction or operation of that specific category of stationary sources and shall identify criteria by which sources may qualify for the registration permit. A source that qualifies may elect to apply to the Department for coverage under a registration permit in lieu of a construction and operating permit as provided in Regulation 61-62.1, Section II (A) and (F). Interested persons are invited to present their views in writing to Stuart Latta; Engineering Services Division; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on Monday, October 27, 2009, the close of the comment period. For more details, please go to our website at <http://www.scdhec.gov/environment/baq/> under What's the Latest.

## Synopsis:

Pursuant to section 112(c)(3) of the federal Clean Air Act, the United States Environmental Protection Agency (EPA) has promulgated regulations for categories or subcategories of "Area Sources" under 40 CFR Part 63 - National Emission Standards for Hazardous Air Pollutants for Affected Source Categories. An "Area Source" is any stationary source of hazardous air pollutants that is not a major source as defined in S.C. Regulation 61-62.70, Title V Operating Permit Program; S.C. Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; and S.C. Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review. The Department is required to develop and implement a program for the enforcement of these "Area Source" emission standards and requirements to assure compliance by all affected sources within the state.

The Department is considering the development and implementation of a "Registration Permit Program" for "Area Source" categories or subcategories with uncontrolled potential to emit less than the threshold for major source groups, and where equipment similarities and simplicity remove the need for in depth site-specific review, for the following EPA regulations promulgated under 40 CFR Part 63:

1. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
2. Subpart WWWW - National Emission Standards for Hospital Ethylene Oxide Sterilizers.
3. Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
4. Subpart BBBBBB - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
5. Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
6. Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
7. Subpart HHHHH - National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.
8. Subpart LLLLL - National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
9. Subpart OOOOO - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
10. Subpart PTTTT - National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.

## 8 NOTICES

11. Subpart QQQQQQ - National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.

12. Subpart RRRRRR - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.

13. Subpart TTTTTT - National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.

14. Subpart WWWWWW - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.

15. Subpart XXXXXX - National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

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

Pursuant to Section IV.B.1. the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than October 27, 2008 to:

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

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

#### Class I

North Wind, Inc.  
Attn: James Furr  
535 N. Pleasantburg Dr, Ste 136  
Greenville, SC 29607

#### Class II.



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

**Notice of Drafting:**

The State Crop Pest Commission is contemplating amending Regulation 27-135 by adding a new plant pest - Asian Citrus Psyllid. Please address all comments to Dr. Christopher Ray, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered, comments must be received no later than 5:00 P.M., October 31, 2008, the close of the drafting comment period.

**Synopsis:**

This regulation deals with the recent discovery of this pest in the State of South Carolina. Said pest is a vector for a serious disease of citrus.

Legislative review of this proposal will be required.

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

**Notice of Drafting:**

The State Crop Pest Commission is contemplating imposing a quarantine for Asian Citrus Psyllid (*Diaphorinia citri* Kuwayama). Please address all comments to Dr. Christopher Ray, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered, comments must be received no later than 5:00 P.M., October 31, 2008, the close of the drafting comment period.

**Synopsis:**

This regulation would deal with the quarantine of certain plant materials and imposing test requirements prior to the importation into or exportation from the State of South Carolina of certain plant materials. Asian Citrus Psyllid is the primary vector for citrus greening disease, also called Huanglong bing or yellow dragon disease, which is a serious disease of citrus plant material.

Legislative review of this proposal will be required.

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

**Notice of Drafting:**

The State Crop Pest Commission is contemplating imposing a quarantine for light brown apple moth (*Epiphyas postvittana*). Please address all comments to Dr. Christopher Ray, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered, comments must be received no later than 5:00 P.M., October 31, 2008, the close of the drafting comment period.

## 10 DRAFTING

### Synopsis:

This regulation would deal with the quarantine of certain plant materials and imposing test requirements prior to the importation into the State of South Carolina of certain plant materials. Moreover should this pest be established and not quarantined, it could pose a serious threat to the export market. Light brown apple moth (*Epiphyas postvittana*) is already designated as a plant pest.

Legislative review of this proposal will be required.

**CLEMSON UNIVERSITY  
STATE CROP PEST COMMISSION  
CHAPTER 27**

Statutory Authority: 1976 Code Section 46-9-40

### Notice of Drafting:

The State Crop Pest Commission is contemplating imposing a quarantine for *Phytophthora Ramorum*. Please address all comments to Dr. Christopher Ray, 511 Westinghouse Road, Pendleton, S. C. 29670. To be considered, comments must be received no later than 5:00 P.M., October 31, 2008, the close of the drafting comment period.

### Synopsis:

This regulation would deal with the quarantine of certain plant materials and imposing test requirements prior to the importation into the State of South Carolina of certain plant materials. *Phytophthora Ramorum* is already designated as a plant pest, and is a serious threat to Oak trees and numerous other hosts.

Legislative review of this proposal 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 Department of Health and Environmental Control proposes to make general revisions to Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (also known as the State Implementation Plan, or SIP). Interested persons are invited to present their views in writing to Andrew Hollis, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received by October 27, 2008, the close of the drafting comment period.

### Synopsis:

The Department proposes to amend Regulation 61-62 and the SIP. In particular the Department will amend R.61-62.3, Air Pollution Episodes, to address particulate matter; R.61-62.5; Standard No. 4, Emissions from Process Industries, to update or correct emission limitations for cotton gins and other source categories; and R.61-62.1, Definitions, and General Requirements, to update and correct requirements as necessary. Other revisions include correcting typographical errors, providing clarification, and the deletion or updating of obsolete requirements.

These proposed amendments are not mandated by federal law and will require legislative review.

**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 State Implementation Plan (SIP). The proposed amendments will be made in conjunction with revisions previously proposed in the April 25, 2008, *State Register*. Interested persons are invited to present their views concerning these amendments 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 October 27, 2008, the close of the drafting comment period.

**Synopsis:**

On May 1, 2007, the United States Environmental Protection Agency (EPA) published a final rule in the *Federal Register* entitled *Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Certain Ethanol Production Facilities Under the "Major Emitting Facility" Definition* (72 FR 24060) which excluded facilities that produce ethanol by natural fermentation and are classified in North American Industry Classification System (NAICS) code 325193 or 312140 from the definition of "chemical process plants." This final rule became effective on July 2, 2007.

The EPA made substantial changes to the federal new source review regulations in December 2002. In response, the Department revised state regulations and submitted the revised SIP for review. On June 2, 2008, the EPA took final action to partially approve, disapprove, and conditionally approve revisions to the SIP submitted by the State of South Carolina on July 1, 2005 in a final rule titled *Approval and Promulgation of Implementation Plans; South Carolina; Prevention of Significant Deterioration and Nonattainment New Source Review Rules* (73 FR 31368). This final rule became effective July 2, 2008. As part of the current conditional approval, the Department has agreed to revise the State Nonattainment New Source Review program and the SIP. A requirement of the current conditional approval is the development of provisions for offsetting emission increases from new source review projects.

On May 16, 2008, the EPA published a final rule in the *Federal Register* entitled *Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>)* (73 FR 28321) which finalized regulations to implement the New Source Review (NSR) program for fine particulate matter (that is, particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, generally referred to as "PM<sub>2.5</sub>"). This final rule became effective July 15, 2008.

The Department proposes to revise R. 61-62.5, Standard No.7, Prevention of Significant Deterioration, R. 61-62.5, Standard No.7.1, Nonattainment New Source Review and the SIP to change the definition of "chemical process plants" and to include requirements of the above referenced finalized Federal regulations for implementing the NSR program for PM<sub>2.5</sub>.

The Department also proposes to make all additional changes necessary (including implementation of provisions for offsetting emissions) for full EPA approval of the State Nonattainment NSR program and the SIP. In addition, the Department proposes to make typographical corrections and clarifications to R.61-62 as necessary.

## 12 DRAFTING

Pursuant to S.C. Code Section 1-23-120(H)(1), the proposed amendments in this Notice will not be more stringent than the current Federal requirements and thus do not require legislative review.

### 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. The proposed amendments are necessary to meet requirements of the United States Environmental Protection Agency (EPA). 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 October 27, 2008, the close of the drafting comment period.

#### Synopsis:

On May 18, 2005, the 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 “Clean Air Mercury Rule” (CAMR). This final rule established standards of performance for mercury (Hg) for new and existing coal-fired electric utility steam generating units (EGUs), as defined in the Clean Air Act (CAA) section 111. The CAMR established measures by which Hg emissions from new and existing coal-fired EGUs are capped at specified, nation-wide levels. The rule also specified how facilities must demonstrate compliance with the standard by holding one “allowance” for each ounce of Hg emitted in any given year. These allowances were designed to be readily transferable among all regulated facilities. This final rule became effective July 18, 2005.

In accordance with this rule, states must 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 State Legislature. 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 (the Court) decided to vacate the CAMR (Case No. 05-1097) based on the petition of two final rules promulgated by the EPA regarding the emission of hazardous air pollutants from EGUs. The first rule, titled “*Revision of December 2000 Regulatory Finding*” (70 FR 15,994), also known as the “Delisting Rule,” removed coal- and oil-fired EGUs from the list of sources whose emissions are regulated under section 112 of the CAA. The second rule was the CAMR, defined under section 111 of the CAA (70 FR 28606). The Court found that delisting coal- and oil-fired power plants from section 112 was unlawful because section 112(c)(9) of the CAA requires the EPA to make specific findings before removing a source listed under section 112; the EPA conceded it did not. Accordingly, the court granted the petitions and vacated both rules.

The EPA filed a petition for a rehearing, seeking review by the full Court (Case No. 05-1097). On May 20, 2008, it was ordered that the petition be denied.

On May 16, 2003, the EPA published a final rule (68 FR 26690) establishing national emission standards for hazardous air pollutants (NESHAP) 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). This final rule became effective May 16, 2003, 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* Vol. 28, Issue 9, on September 24, 2004. On March 13, 2007, the Court vacated this rule (case No. 03-1202).

On September 13, 2004, the EPA published a final rule 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* Vol. 29, Issue 8, on August 26, 2005. On June 8, 2007, the Court vacated this rule (case No. 04-1385).

The Department proposes to amend R.61-62, Air Pollution Control Regulations and Standards by repealing all provisions of the State CAMR. The Department also proposes to amend R. 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories by repealing all provisions of the aforementioned rules published in the *Federal Register* May 16, 2003, and September 13, 2004, respectively. The Department may also propose typographical corrections and clarifications to R.61-62 as necessary.

The proposed amendments will require legislative review.

**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 State Implementation Plan or SIP. Specifically, the Department proposes to amend R. 61-62.96 Nitrogen Oxides (NO<sub>x</sub>) And Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program General Provisions (state CAIR) to address the Federal vacature of the Federal Clean Air Interstate Rule (CAIR) and to reinstate the NO<sub>x</sub> SIP Call/NO<sub>x</sub> Budget Trading Program due to be superseded on April 30, 2009. Interested persons are invited to present their views concerning these amendments in writing to Anthony T. Lofton, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by October 27, 2008, the close of the drafting comment period.

**Synopsis:**

In 2004, the United States Environmental Protection Agency (EPA) determined that 28 states and the District of Columbia contributed significantly to nonattainment of National Ambient Air Quality Standards (NAAQS) for PM<sub>2.5</sub> and eight-hour ozone in downwind states.

On May 12, 2005, the EPA published the *Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO<sub>x</sub> SIP Call; Final Rule*. The CAIR would permanently cap emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) in the eastern United States (U.S.) and achieve large reductions of SO<sub>2</sub> and/or NO<sub>x</sub> emissions across 28 eastern states and the District of Columbia. When fully implemented, the CAIR was expected to reduce SO<sub>2</sub> emissions in these states by over 70 percent and NO<sub>x</sub> emissions by over 60 percent from 2003 levels.

## 14 DRAFTING

On June 22, 2007, R. 61-62.96, Nitrogen Oxides (NO<sub>x</sub>) and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program General Provisions, was amended by the Department to address the requirements of the CAIR. Included in these amendments is a provision to repeal the NO<sub>x</sub> SIP Call/NO<sub>x</sub> Budget Trading Program as of April 30, 2009.

On July 11, 2008, the U.S. Court of Appeals for the District of Columbia Circuit (Court) vacated the EPA's CAIR. Based on what it called "fatal flaws" in the rule, the Court vacated the CAIR (and the EPA's Federal Implementation Plan or FIP) in its entirety and remanded it to the EPA to promulgate a rule that is consistent with the Court's opinion. The EPA is reviewing the Court's decisions and evaluating its impacts in order to determine its next course of action.

The Department faces much uncertainty due to the vacatur of the CAIR and that the Court mandate has not been issued, specifically in reference to the State CAIR and NO<sub>x</sub> SIP Call Trading Program regulations that are currently in place. Possible resolutions at the federal level include EPA revision to the CAIR rule to meet the Court's satisfaction; Congressional action for an interim solution; or a Court mandate vacating CAIR.

The Department proposes to amend R. 61-62, as necessary, once the Court's decision is issued and Congress and EPA have responded. This action may include, but not be limited to, repealing the State CAIR in its entirety, which will return R.61-62.96 to its original language (prior to June 22, 2007), thereby reinstating the NO<sub>x</sub> SIP Call/NO<sub>x</sub> Budget Trading Program as of April 30, 2009.

The proposed amendments will require legislative review.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-7-2410 through 44-7-2460

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

The South Carolina Department of Health and Environmental Control (DHEC) is proposing a new regulation that will address the requirements of the Hospital Infections Disclosure Act, including, but not limited to, hospitals' reporting of certain hospital acquired infections and infection control prevention processes to the Department. Interested persons are invited to submit their views in writing to Dixie Roberts, South Carolina Department of Health and Environmental Control, P.O. Box 101106, Columbia, S.C. To be considered, written comments must be received by the Department by 5:00 p.m. on October 27, 2008, the close of the drafting comment period.

#### **Synopsis:**

The S.C. General Assembly passed legislation in 2006 requiring hospitals to report selected hospital acquired infections and infection control processes to the Department. The proposed regulation will address the Department's administration of the hospital infections reporting process, including penalties that may be assessed for non-compliance. The regulation will address the statutory requirements, including, but not limited to, the quality, timeliness and completeness of data reporting, and case finding while in the hospital and after discharge.

Legislative review of this proposal will be required.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**

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

**Notice of Drafting:**

The South Carolina Department of Health and Environmental Control (Department) proposes to amend South Carolina Regulation 61-58, State Primary Drinking Water Regulations (R.61-58). Interested persons may submit their views in writing to Mr. Douglas B. Kinard, Drinking Water Protection Division, Bureau of Water, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, written comments must be received no later than 5:00 p.m. on October 27, 2008, the close of the drafting comment period.

**Synopsis:**

The Department proposes to revise R.61-58 to include federal requirements promulgated as the National Primary Drinking Water Regulations for Lead and Copper: Short Term Regulatory Revisions and Clarifications. This final rule was published in the *Federal Register* at 72 FR 57782 on October 10, 2007. The proposed revisions include minor changes in sampling procedures and lead service line replacement requirements and will enhance public education requirements under the Lead and Copper Rule.

The proposed amendments to the regulations are necessary for compliance with federal statute and are exempt from legislative review and therefore, no preliminary assessment report or fiscal impact statement is required.

**COMMISSION ON HIGHER EDUCATION**  
**CHAPTER 62**

Statutory Authority: 1976 Code Section 59-104-20

**Notice of Drafting:**

The South Carolina Commission on Higher Education proposes to amend regulations for the South Carolina Need-based Grant Program. Interested persons may submit comments to Dr. Karen Woodfaulk, Director of Students Services Division, South Carolina Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, S.C. 29201-3245. To be considered, comments must be received no later than 5:00 p.m. on November 26, 2007, the close of the drafting comment period.

**Synopsis:**

The Commission on Higher Education proposes to amend R. 62-475 (E)(1)(2) and R. 62-460 (A) of the South Carolina Need-based Grant Program. There is an additional clarification being proposed such as adding a definition of "Regular Academic Semester" to promote consistency in the grant program regulation.

Legislative review of this proposal will be required.

## 16 DRAFTING

### DEPARTMENT OF INSURANCE

#### CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 38-57-10 et seq., 38-63-660, and 38-65-360

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

The South Carolina Department of Insurance proposes to amend Regulation 69-40, Life Insurance Policy Illustration Rules. Interested persons should submit their comments in writing to: Leslie M. Jones, Deputy Director & Consulting Actuary, South Carolina Department of Insurance, 145 King Street, Suite 207, Charleston, South Carolina 29401. To be considered comments must be received no later than 5:00 p.m. on October 27, 2008, the close of the drafting comment period.

#### **Synopsis:**

The South Carolina Department of Insurance proposes to update and clarify Regulation 69-40, Life Insurance Policy Illustration Rules. Proposed amendments to Regulation 69-40, Life Insurance Policy Illustration Rules, will be based upon the current NAIC Life Insurance Illustrations Model Regulation.

The proposed regulation will require legislative review.

### DEPARTMENT OF INSURANCE

#### CHAPTER 69

Statutory Authority: 1976 Code Sections 38-3-110, 38-72-10, 38-72-60, and 38-72-70

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

The South Carolina Department of Insurance proposes to amend Regulation 69-44, Long-Term Care Insurance. Interested persons should submit their comments in writing to: Leslie M. Jones, Deputy Director & Consulting Actuary, South Carolina Department of Insurance, 145 King Street, Suite 207, Charleston, South Carolina 29401. To be considered comments must be received no later than 5:00 p.m. on October 27, 2008, the close of the drafting comment period.

#### **Synopsis:**

The South Carolina Department of Insurance proposes to update and clarify Regulation 69-44, Long-Term Care Insurance. Proposed amendments to Regulation 69-44, Long-Term Care Insurance, will be based upon the current NAIC Long-Term Care Insurance Model Regulation.

The proposed regulation will require legislative review.



**DEPARTMENT OF INSURANCE****CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-110, 38-57-60, 38-63-10, 38-63-20, 38-65-10, 38-65-20, 38-69-10, and 38-69-20

**Notice of Drafting:**

The South Carolina Department of Insurance proposes to amend Regulation 69-12.1, Replacement of Life Insurance and Annuities. Interested persons should submit their comments in writing to: Leslie M. Jones, Deputy Director & Consulting Actuary, South Carolina Department of Insurance, 145 King Street, Suite 207, Charleston, South Carolina 29401. To be considered comments must be received no later than 5:00 p.m. on October 27, 2008, the close of the drafting comment period.

**Synopsis:**

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

The proposed regulation will require legislative review.

**DEPARTMENT OF INSURANCE****CHAPTER 69**

Statutory Authority: 1976 Code Sections 38-3-60, 38-57-10 et seq., 38-63-10, 38-65-10, and 38-69-10

**Notice of Drafting:**

The South Carolina Department of Insurance proposes to amend Regulation 69-30, Solicitation of Life Insurance. Interested persons should submit their comments in writing to: Leslie M. Jones, Deputy Director & Consulting Actuary, South Carolina Department of Insurance, 145 King Street, Suite 207, Charleston, South Carolina 29401. To be considered comments must be received no later than 5:00 p.m. on October 27, 2008, the close of the drafting comment period.

**Synopsis:**

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

The proposed regulation will require legislative review.

## 18 DRAFTING

### DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF ACCOUNTANCY

#### CHAPTER 1

Statutory Authority: 1976 Code Sections 40-2-70 and 40-1-70

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

The South Carolina Department of Labor, Licensing, and Regulation, Board of Accountancy is considering amendment of the regulations governing the practice of accounting. Interested persons may submit comments to Doris Cubitt, Administrator, S.C. Department of Labor, Licensing and Regulation, Board of Accountancy, Post Office Box 11329, Columbia, S.C. 29211-1329. The Board especially solicits comments on S.C. Reg. 1-05(A) and the effect of firm registration on the practice of accounting in non-traditional settings.

#### **Synopsis:**

In response to a petition for relief filed by CPA members of a tax-consulting firm, the Board of Accountancy is examining both the impact of S.C. Reg. 1-05(A) on licensees who work in non-traditional settings and the nature and degree of protection that the regulation provides to the public. The Board is also considering the impact of recent statutory changes on its regulations.

### DEPARTMENT OF LABOR, LICENSING AND REGULATION SOUTH CAROLINA PERPETUAL CARE CEMETERY BOARD

#### CHAPTER 21

Statutory Authority: 1976 Code Sections 40-8-10 et seq.

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

The South Carolina Perpetual Care Cemetery Board proposes to amend current regulations 21-1 through 21-60 and delete Regulation 21-61 through 21-64 to clarify and conform to the Perpetual Care Cemetery Practice Act. These regulations also are updated to reflect statutory amendments made to the South Carolina Perpetual Care Cemetery Act by 2002 Act 322. Interested persons may submit comments to Doris Cubitt, Administrator, S.C. Department of Labor, Licensing and Regulation, Perpetual Care Cemetery Board, Post Office Box 11329, Columbia, S.C. 29211-1329.

#### **Synopsis:**

The Department of Labor, Licensing and Regulation proposes to amend current Regulations 21-1 through 21-64 to reflect amendments made to the South Carolina Perpetual Care Cemetery Act by 2002 Act 322.

### DEPARTMENT OF LABOR, LICENSING AND REGULATION BOARD OF COSMETOLOGY

#### CHAPTER 35

Statutory Authority: 1976 Code Sections 40-13-60 and 40-1-70

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

The Department of Labor, Licensing, and Regulation, South Carolina Board of Cosmetology proposes to amend Regulations 35-1 through 35-5, Regulations 35-8 through 35-10, Regulations 35-13 through 35-20, and Regulations 35-23 through 35-26 by updating in conformance with the current Cosmetology Practice Act and current training in schools of cosmetology. Interested persons may submit comments to Eddie L. Jones, Administrator, South Carolina Department of Labor, Licensing and Regulation, Office of Business and

Related Services, South Carolina Board of Cosmetology, 110 Centerview Drive, Columbia, South Carolina 29210. The Board of Cosmetology specifically requests comments concerning appropriate regulation of cosmetology schools and of continuing education for licensees.

**Synopsis:**

The South Carolina Board of Cosmetology proposes to update and clarify existing regulations and to make the current regulations agree with current statutory language.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF ENVIRONMENTAL CERTIFICATION  
CHAPTER 51**

Statutory Authority: 1976 Code Sections 40-1-70, 40-23-10 and 40-23-40

**Notice of Drafting:**

The South Carolina Environmental Certification Board proposes to promulgate regulations to implement 2008 Act 223 and to reflect other developments in environmental regulation since 2005. The Board specifically solicits comments concerning requirements for continuing education and for comity recognition of credentials from other licensing jurisdictions. Interested persons may submit comments to Dona Ferguson, Board Administrator, S.C. Department of Labor, Licensing and Regulation, South Carolina Environmental Certification Board, Post Office Box 11409, Columbia, S.C. 29211-1329.

**Synopsis:**

The South Carolina Environmental Certification Board proposes to promulgate amended regulations, which may address examinations, levels of licensure and permit, license renewal, continuing education, and recognition of credentials from other licensing jurisdictions.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BOARD OF FUNERAL SERVICE  
CHAPTER 57**

Statutory Authority: 1976 Code Sections 32-8-300 et seq.

**Notice of Drafting:**

The South Carolina Board of Funeral Service proposes to amend current Regulation 57-01 and add Regulations 57-14 through 57-16 to clarify and conform to the Funeral Service Practice Act. The proposed changes, among other things, will include updated procedures. Interested persons may submit comments to Doris Cubitt, Administrator, S.C. Department of Labor, Licensing and Regulation, Board of Funeral Service, Post Office Box 11329, Columbia, S.C. 29211-1329.

**Synopsis:**

The Department of Labor, Licensing and Regulation proposes to amend current Regulations 57-01 and add Regulations 57-14 through 57-16 to clarify and conform to the Funeral Service Practice Act.

## 20 DRAFTING

### WORKERS' COMPENSATION COMMISSION

#### CHAPTER 67

Statutory Authority: 1976 Code Section 42-3-30

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

The South Carolina Workers' Compensation 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 petitions procedures. Interested persons should submit their views in writing to Janet Godfrey Griggs, General Counsel, South Carolina Workers' Compensation Commission, Post Office Box 1715, Columbia, South Carolina 29202-1715. To be considered, comments must be received no later than 5:00 p.m. on Monday, October 27, 2008, the close of the drafting comment period.

#### **Synopsis:**

The Commission is making revisions to address, but not necessarily limited to, the following subjects:

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

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

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

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

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

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

Regulation 67-202A(18) is added.

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

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

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

A new form, Form 16A becomes 67-203B(26). Current Regulation 67-203B(26) is renumbered as 67-203B(27). The subsequent subparagraphs are renumbered through 67-203B(38).

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

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

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

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

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

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

Regulation 67-206B(3) is deleted.

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

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

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

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

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

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

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

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

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

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

Regulation 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.

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

A new Regulation 67-401B is added.

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

Newly renumbered Regulation 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 Regulation 67-401C is renumbered 67-401D.

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

## 22 DRAFTING

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

Regulation 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.

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

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

Regulation 67-405C is deleted in its entirety.

Regulation 67-405D is deleted in its entirety.

Regulation 67-405F is deleted in its entirety.

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

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

Newly renumbered Regulation 67-405C(1) is amended to delete references to Regulations 67-406 and 67-407 and to clarify termination date.

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

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

Regulation 67-406 is deleted in its entirety.

Regulation 67-407 is deleted in its entirety.

Regulation 67-408 is deleted in its entirety.

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

Regulation 67-410 is deleted in its entirety.

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

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

Regulations 67-411C(1) and 67-411C(2) are amended to change the amount from two thousand five hundred dollars to five hundred dollars.

Regulation 67-411C(1) is further amended to delete the reference to Regulation 67-412.

Regulation 67-411C(2) is further amended to delete the reference to "Previously Processed as Medical Only."

Regulation 67-412 is deleted in its entirety.

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

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

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

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

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

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

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

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

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

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

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

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

Regulation 67-801B is a grammatical correction.

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

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

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

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

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

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

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

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

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

## 24 DRAFTING

Regulation 67-803A(1) through 67-803A(5) is amended to reflect grammatical changes.

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

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

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

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

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

Regulations 67-804C(2)(a) through 67-804C(2)(f) are renumbered to reflect the addition of Form 14B.

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

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

Regulation 67-804F is amended to add Form 16A.

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

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

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

Regulation 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.

Regulation 67-1101C is amended to delete the number of weeks for total loss of the penis.

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

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

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

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

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

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



Regulations 67-1402A and 67-1402E are amended by deleting “’s Accident Reporting Division.”

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

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

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

Other pertinent changes will be made which may fall under the scope of the proposed revisions.

Legislative review of these proposals will be required.

## 26 PROPOSED REGULATIONS

Document No. 4016  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61  
Statutory Authority: 1976 Code Section 44-1-180

### 61-29. Environmental Health Inspections and Fees

#### **Preamble:**

The Department of Health and Environmental Control proposes to revise R.61-29. This regulation sets the inspection fee charged for environmental health inspections conducted by the Department in facilities regulated or licensed by other state agencies including, but not limited to, child care facilities, foster homes, child residential care facilities, and spouse abuse shelters. Proposed amendments include language that allows the Department to set the fee at a level that will offset the cost of providing the service and conducting the inspections, as well as allowing the fee to be evaluated and adjusted as needed. Without this fee, the Department may be unable to continue providing this service.

Staff initiated the statutory process for the revision of R.61-29 by publication of a Notice of Drafting in the *State Register* on June 27, 2008. Notice was also published on the Department's website in its Regulation Development Update at [www.scdhec.net/co/regs](http://www.scdhec.net/co/regs). The drafting comment period ended on July 28, 2008; no comments were received during the drafting comment period. See the Statement of Need and Reasonableness herein.

#### Discussion of Proposed Revisions:

#### SECTION / REVISION

- C. Foster homes added into the language of the regulation, and the Department of Mental "Retardation" changed to the Department of Mental "Health."
- D. The set fee of \$60 is deleted, and language is added to allow the fee to be set at a level that covers costs incurred by the Department in conducting the inspections and allows the fee to be evaluated periodically and set accordingly.
- E. "Procedures" added to clarify the regulation.
- F. Severability Clause added.

#### **Notice of Staff Informational Forum:**

Staff of the Department of Health and Environmental Control invites interested members of the public and the regulated community to attend a staff-conducted informational forum to be held on October 27, 2008, at 10:00 a.m., in Room 1625 at the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. The purpose of the forum is to answer questions, clarify any issues, and receive public comments from interested persons on proposed R.61-29, Environmental Health Inspections and Fees. Please use the front entrance of the building facing Bull Street if you plan to attend.

Interested persons are also provided an opportunity to submit written comments to Mr. H. Michael Longshore, Bureau of Environmental Health, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on October 27, 2008, the close of the public comment period.

Public comments received at the forum and during the public comment period by the deadline requested above will be considered in formulating the final proposed regulation for public hearing before the Board as noticed below.

A hard copy of the Notice of Proposed Regulation and the text of the proposed amendments for public notice and comment may be obtained by contacting Mr. H. Michael Longshore, Bureau of Environmental Health, 2600 Bull Street, Columbia, SC 29201, or by calling (803) 896-0646. Interested persons may also obtain a copy from the DHEC Regulatory Information website at <http://www.scdhec.gov/administration/regs/> by clicking in the DHEC Regulation Development Update. In the Update, click on the Environmental Health category, then scan down for this proposed amendment of R.61-29, and it will link to the text of the proposed regulation on the S.C. Legislature On-line website.

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

Interested members of the public and regulated community are invited to comment on proposed R.61-29, Environmental Health Inspections and Fees, at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 11, 2008. The public hearing is to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department twenty-four (24) hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy are asked to provide written copies of their presentation for the record.

**Preliminary Fiscal Impact Statement:**

The fee charged for these inspection services will be increased to a level that covers the Department's cost to provide the services.

**Statement of Need and Reasonableness:**

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

**DESCRIPTION OF REGULATION:**

Purpose: Regulation 61-29 sets the inspection fee charged for environmental health inspections conducted by the Department in facilities regulated or licensed by other state agencies including, but not limited to, child care facilities, foster homes, child residential care facilities, and spouse abuse shelters. Proposed amendments include language that allows the Department to set the fee at a level that will offset the cost of providing the service and conducting the inspections, as well as allowing the fee to be evaluated and adjusted as needed.

Legal Authority: The legal authority for R.61-29 is Section 44-1-180 of the S.C. Code of Laws (1976).

Plan for Implementation: The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and the General Assembly and publication in the *State Register*. Other state agencies that utilize this service will be provided copies of the regulation.

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

Regulation 61-29 sets the inspection fee charged for environmental health inspections conducted by the Department in facilities regulated or licensed by other state agencies including, but not limited to, child care facilities, foster homes, child residential care facilities, and spouse abuse shelters. Proposed amendments include language that allows the Department to set the fee at a level that will offset the cost of providing the service and conducting the inspections, as well as allowing the fee to be evaluated and adjusted as needed.

### DETERMINATION OF COSTS AND BENEFITS:

The fee charged for these inspection services will be increased to a level that covers the Department's cost to provide the services.

There will be a benefit to South Carolina by ensuring that the Department can continue work in partnership with other state agencies to ensure that proper sanitation principles are implemented in facilities regulated by other state agencies and can continue to provide sanitation inspection services in these facilities.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation will protect the health and environment of South Carolina's citizens, especially children, by ensuring that proper sanitation principles and practices are implemented in facilities regulated by agencies other than DHEC.

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

Not implementing the regulation will place a significant burden on the Department's resources that may result in the Department discontinuing this service to other state agencies.

### **Statement of Rationale:**

This regulation sets the inspection fee charged for environmental health inspections conducted by the Department in facilities regulated or licensed by other state agencies including, but not limited to, child care facilities, foster homes, child residential care facilities, and spouse abuse shelters. Without this fee, the Department may be unable to continue providing this service.

### **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. 4015  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**

Statutory Authority: 1976 Code Sections 48-2-10 et seq.

61-30. Environmental Protection Fees

**Preamble:**

R.61-30, Environmental Protection Fees, was promulgated June 23, 1995, pursuant to the Environmental Protection Fund Act of 1993, S.C. Code Ann. Sections 48-2-10 et seq. This regulation prescribes those fees applicable to applicants and holders of licenses, certifications, and permits. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation of applicability.

The Department's Office of Environmental Laboratory Certification is requesting an increase to the laboratory certification fees specified in R.61-30. The fee increase is necessary to provide adequate funding to fully support the complete implementation of the Certification Program required by S.C. Regulation 61-81, State Environmental Laboratory Certification Regulation. This Regulation provides the mechanism to assure the validity and quality of the data being generated for compliance with State regulations.

See Discussion of Proposed Revisions and Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting for the proposed amendments was published in the *State Register* on June 27, 2008. Notice of the Department's intent to promulgate these amendments was also published on the Department's Internet website at <http://www.scdhec.gov/administration/regs/> in its *DHEC Regulation Development Update*. No comments were received.

Discussion of Proposed Revisions:

Note: The sections cited in this listing reflect the proposed sections as they are numbered in the underline/overstrike version of the regulation.

R.61-30.G.4(a)-(k)

- (a) Fee increases for Application Fee were revised to include a base fee, metals fee, organics fee, in addition to new fees for renewal applications and additional parameter applications.
- (b) Fee increases for Minimum Annual Fee (per laboratory)
- (c) Fee increases for Clean Water Act (CWA) Inorganics per parameter
- (d) Fee increases for Safe Drinking Water Act (SDWA) Inorganics per parameter
- (e) Fee increases for SDWA "Secondary" Inorganics per parameter
- (f) Fee increases for CWA Organics
  - (f)(i) Fee increases for PCBs and Pesticides
  - (f)(ii) Fee increases for Herbicides
  - (f)(iii) Fee increases for Volatiles
  - (f)(iv) Fee increases for Semivolatiles
  - (f)(v) Fee increases for Dioxins and Furans
- (g) Fee increases for SDWA Organics
  - (g)(i) Fee increases for Trihalomethanes
  - (g)(ii) Fee increases for Organic Compounds
  - (g)(iii) Fee increases for Volatiles
- (h) Fee increases for Microbiology and clarification of the fee by Act and Method
  - (h)(i) Fee increases for Total Coliform
  - (h)(ii) Fee increases for Fecal Coliform

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- (h)(iii) Fee increases for Streptococci
- (i) Fee increases for Biology
- (i)(i) Fee increases for Toxicity Testing
- (i)(ii) Fee increases for Taxonomy
- (j) Fee increases for Solid and Hazardous Wastes (SW-846) and cap was removed for those laboratories which have paid the applicable per parameter fees for CWA tests.
- (j)(i) Fee increases for Inorganics (per parameter)
- (j)(ii) Fee increases for Organics (per parameter group)
- (k) Fee increases for Air Quality Analysis and cap was removed for those laboratories which have paid the applicable per parameter fees for CWA tests.
- (k)(i) Fee increases for Inorganics (per parameter)
- (k)(ii) Fee increases for Organics (per parameter group)

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

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 28, 2008 at 10:00 AM in Peebles Auditorium, third floor of the Sims Building at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. The purpose of the forum is to answer questions, clarify issues, and receive public comments from interested parties on the proposed amendment of R.61-30. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk.

Interested parties are also provided an opportunity to submit written comments on the proposed amendment by writing to Carol Smith at the Office of Environmental Laboratory Certification, P.O. Box 72, State Park, South Carolina 29147, Fax number (803) 896-0850. To be considered, written comments submitted must be received no later than 5:00 PM on October 28, 2008, the close of the public comment period.

Copies of the Notice of Proposed Regulation and text of the regulation for public notice and comment may be obtained by contacting Carol Smith at the Office of Environmental Laboratory Certification, P.O. Box 72, State Park, South Carolina 29147, telephone number (803) 896-0992, Fax number (803) 896-0850, or from the Department's Regulatory Information internet website in its *DHEC Regulation Development Update* at <http://www.scdhec.gov/administration/regs/>. In the *Update*, click on Environmental Laboratory Services and scan down to the proposed amendment of R61.30, and it will link to the text of the proposed regulations on the S.C. Legislature On-line website.

Comments received at the forum and/or submitted in writing by the close of the public comment period as noticed above shall be considered by staff in formulating the final text of the proposed regulation and shall be submitted in a Summary of Public Comments and Department Responses for consideration by the Board of Health and Environmental Control at the public hearing scheduled for December 11, 2008 as noticed below.

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

Interested members of the public and regulated community are invited to make oral and written comments on the proposed amendment R.61-30 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 11, 2008. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in order presented. The order of presentation for public hearings will be noticed in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of

their presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk.

**Preliminary Fiscal Impact Statement:**

No additional costs will be incurred by the State or its political subdivisions by implementation of this amendment. (See Determination of Costs and Benefits in the Statement of Need and Reasonableness below)

**Statement of Need and Reasonableness:**

The statement of need and reasonableness and preliminary assessment report was determined by staff analysis pursuant to S.C. Code Ann. Sections 1-23-115(C)(1)-(3) and (9)-(11) and 48-2-50.

DESCRIPTION OF REGULATION: Amendment of Regulation R.61-30, Environmental Protection Fees.

Purpose: The proposed amendment of R.61-30 will increase the fees charged by the Office of Environmental Laboratory Certification to process applications, perform certification renewals, perform certification maintenance, perform evaluations, and issue certifications to environmental laboratories certified according to Regulation 61-81, State Environmental Certification Regulations.

Legal Authority: S.C. Code Sections 48-2-10 et seq.

Plan for Implementation: The proposed amendment would be incorporated within R.61-30 upon approval of the Board of Health and Environmental Control, the General Assembly and publication in the *State Register*. The proposed amendment will be implemented in the same manner in which the present regulation is implemented.

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

Regulation 61-81, State Environmental Laboratory Certification Regulations requires the evaluation and certification of environmental laboratories performing environmental testing for regulatory compliance monitoring purposes in South Carolina. Proper funding will enable the program to help ensure the validity and quality of the data being generated by laboratories for compliance with State regulations and also ensure that they are performing testing in accordance with pertinent Federal and State environmental regulations.

The proposed fee increases are designed to cover the operating costs of the program at the current staffing level. The costs include, but are not limited to, the processing of applications for certification, performing certification renewals, performing certification maintenance procedures, performing evaluations, and issuing certification to environmental laboratories certified under Regulation 61-81. Due to the complexity of metal and organic testing applications, additional fees are proposed for these in addition to the base fee for general applications. A renewal application fee is also proposed to cover the costs associated with application renewals of in-state and out-of-state laboratories. An additional parameter application fee has been proposed for the addition of inorganic parameters covered under the base fee or additional metals and/or organic analytes for currently certified analytical methods. The additional parameter application fee would also apply to applications for recertification for Proficiency Testing (PT) failures. All other parameter fees reflect an increase. A clarification has been added for the Microbiology to state that the fee is assessed for each microorganism by Act (SDWA, CWA, and RCRA) and Method. The \$1500.00 cap for Solid and Hazardous Wastes (SW-846) and Air Quality Certification fees for those laboratories which have paid the applicable per parameter fees for Clean Water Act tests has been proposed to be removed. The current fees collected are insufficient to cover the costs associated with the program.

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### DETERMINATION OF COSTS AND BENEFITS:

The Office of Environmental Laboratory Certification became a fee supported program in Fiscal Year 1993. Since that time the fees have increased once in Fiscal Year 2001 at the Department's request due to recurring budget shortfalls. The number of laboratories that generate the fees is market driven, and can vary drastically from year to year. The reduction in fees generated by the program has been enhanced in recent years due to the continued consolidation of the environmental commercial laboratories nationwide. Even though the program has experienced a decrease in the number of commercial laboratories, more time is required for maintenance of certification for in-state and out-of-state laboratories due to the complexity of the environmental regulations and methodology. Compounded with the costs associated with maintaining experienced certification officers to perform evaluations of the laboratories, the program must seek a fee increase to continue operating at the present staffing level.

It is important that the program maintain experienced certification officers to perform the duties associated with the certification of laboratories. It takes many years of experience and training for laboratory certification officers to become proficient in the analyses they must evaluate. They must also have knowledge of the regulations for which the analyses are being performed. Costs for personnel comprise the majority of costs to the program. Also travel costs have increased over the past two years, and this has also contributed to our budget shortfall.

Certification maintenance procedures have increased because of the annual Proficiency Testing (PT) requirement, EPA's DMR-QA Study for major dischargers, and notification of regulation and methodology changes related to the Safe Drinking Water Act (SDWA), Clean Water Act (CWA), and Resource Conservation and Recovery Act (RCRA). The EPA's Methods Update Rule released March 12, 2007 resulted in numerous changes to the SDWA and CWA analysis and sampling procedures. Requests for technical assistance from the regulatory community and the citizens of South Carolina have also increased due to new regulations incorporating additional monitoring and methodology.

Since FY 2001, the fees have generated less money than needed to operate the program. Surplus funds from other areas were used to make up the shortfall but the surplus funds are no longer available, leaving the program under funded and unable to carry out statutory mandates.

Estimated total costs of FY 2009 program: \$553,000

Projected FY 09 revenues at current fees: \$283,000

Estimated revenue with fee increases: \$542,000

Monies generated over and above the costs of the current program would go into surplus funds to cover the costs of inflation and increased costs incurred from the loss of laboratories.

The additional cost to the regulated community is a result of the requirements that the Department must recover all costs associated with the program through fees.

### UNCERTAINTIES OF ESTIMATES:

Minimal.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The certification of environmental laboratories is necessary to protect both the natural resources of South Carolina and the health of its citizens. Proper funding will enable the program to help ensure the validity and



quality of the data being generated by laboratories for compliance with State regulations and also ensure that they are performing testing in accordance with pertinent Federal and State environmental regulations.

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

Without sufficient funding to maintain the program at the current staffing level and continue the required actions according to R.61-81, the Department will no longer be able to ensure the validity of the data submitted for regulatory compliance analyses for drinking water, wastewater, groundwater, hazardous waste, etc. The Department will not be able to maintain adequately trained certification officers to perform the duties associated with certifying environmental laboratories and there will be a reduction in services to the regulatory community and to other citizens of South Carolina. The health of citizens of the State of South Carolina along with the protection of our natural resources will be at risk.

**Statement of Rationale:**

After consultation with the regulated community and the public, this is ultimately an administrative decision by the Department to amend R.61-30 to adjust existing fees to more accurately reflect the actual costs incurred by the Department in implementation of the regulatory program. See Statement of Need and Reasonableness.

**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. 4014  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: 1976 Code Sections 48-2-10 et seq., and 44-1-60

61-30. Environmental Protection Fees

**Preamble:**

R.61-30, Environmental Protection Fees, was promulgated June 23, 1995, pursuant to the Environmental Protection Fund Act of 1993, S.C. Code Ann. Sections 48-2-10 et seq. This regulation prescribes those fees applicable to applicants and holders of licenses, certifications, and permits. This regulation also establishes procedures for the payment of fees, provides for the assessment of penalties for nonpayment, and establishes an appeals process to contest the calculation of applicability.

The South Carolina Department of Health and Environmental Control (Department) is proposing to amend R.61-30 as follows:

- (1) Increase fees for the individual residential wells and irrigation wells program.
- (2) Amend R.61-30 to revise language regarding the appeals process for compliance with the S.C. Administrative Procedures Act.

See Discussion of Proposed Revisions and Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting for the proposed amendments was published in the *State Register* on June 27, 2008. Notice of the Department's intent to promulgate these amendments was also published on the Department's

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Internet website at <http://www.scdhec.gov/administration/regs/> in its *DHEC Regulation Development Update*. No relevant comments were received.

#### Discussion of Proposed Revisions

Note: The sections cited in this listing reflect the proposed sections as they are numbered in the underline/overstrike version of the regulation.

- (1) Revision of fees for residential and irrigation well permitting program.

<u>SECTION</u>	<u>REVISION</u>
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R.61-30.G(10)	Added language to reflect the increase to the fees to be charged.
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- (2) Revise existing language on the appeals process to comply with requirements of the S.C. Administrative Procedures Act.

<u>SECTION</u>	<u>REVISION</u>
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R.61-30.B(3)	Deletion of definition no longer used in the regulation and subsequent renumbering.
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R.61-30.B(18)	Deletion of definition no longer used in the regulation and subsequent renumbering.
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R.61-30.F.	Revised language to include the statutory requirements for appeals.
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#### Notice of Staff Informational Forum and Public Comment Period:

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 30, 2008 at 6:00 p.m. in Peeples Auditorium, third floor of the Sims Building at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify issues, and receive public comments from interested parties on the proposed amendment of R.61-30. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk.

Interested parties are also provided an opportunity to submit written comments on the proposed amendment by writing to Jim Hess at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, Fax number (803) 898- 4190. To be considered, written comments must be received no later than 5:00 p.m. on October 30, 2008 or submitted in person at the staff-conducted informational forum, as noted above, which will be the close of the public comment period.

Copies of the Notice of Proposed Regulation and text of the regulation for public notice and comment may be obtained by contacting Jim Hess at Bureau of Water, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201, telephone number (803) 898-3376, Fax number (803) 898-4190, or from the Department's Regulatory Information internet website in its *DHEC Regulation Development Update* at <http://www.scdhec.gov/administration/regs/> (click on the *Update*, then *Water*, and scan down for this proposed amendment).

Comments received at the forum and/or submitted in writing by the close of the public comment period as noticed above shall be considered by staff in formulating the final text of the proposed regulation and shall be submitted in a Summary of Public Comments and Department Responses for consideration by the Board of Health and Environmental Control at the public hearing scheduled for December 11, 2008 as noticed below.

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

Interested members of the public and regulated community are invited to make oral and written comments on the proposed amendment R.61-30 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on December 11, 2008. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in order presented. The order of presentation for public hearings will be noticed in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street Entrance and register at the front desk.

**Preliminary Fiscal Impact Statement:**

No costs to the State or significant cost to its political subdivisions as a whole should be incurred by these amendments. See Statement of Need and Reasonableness below.

**Statement of Need and Reasonableness:**

The statement of need and reasonableness and preliminary assessment report was determined by staff analysis pursuant to S.C. Code Ann. Sections 1-23-115(C)(1)-(3) and (9)-(11) and 48-2-50.

DESCRIPTION OF REGULATION: Amendment of Regulation R.61-30, Environmental Protection Fees.

Purpose:

(1) The proposed amendment of R.61-30 will revise the individual residential and irrigation well fees associated with the Department's Individual Residential and Irrigation Well Permitting Program.

(2) The proposed amendment will also make necessary revisions to the appeals language of the regulation to comply with recent changes in the S.C. Administrative Procedures Act (APA).

Legal Authority: S.C. Code Ann. Sections 48-2-10 et seq., and 44-1-60.

Plan for Implementation: The proposed amendment would be incorporated within R.61-30 upon approval by the Board of Health and Environmental Control, the General Assembly, and publication in the *State Register*. The proposed amendment will be implemented in the same manner in which the present regulation is implemented.

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

(1) In accordance with South Carolina Regulation, Individual Residential Well and Irrigation Well Permitting (R.61-44), the Department is authorized to collect a fee for each application to install individual residential wells and irrigation wells in order to develop and implement well construction review, compliance inspections, enforcement, technical assistance, and bacteriological analytical services for new individual residential wells. The current fee is insufficient to cover the costs associated with the program. The fee

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increase is necessary to ensure the protection of the health of private well users in South Carolina by providing adequate funding to fully support the complete implementation of the program and coverage throughout the State.

(2) Amendments to revise the language regarding the appeals process is needed and reasonable because the revision will comply with state law.

### DETERMINATION OF COSTS AND BENEFITS:

This also addresses cost to regulated community and state.

(1) Additional staff and resources are necessary to fully implement the existing program as was originally intended when the regulation and associated fees were developed in the mid 1990's. The well inspection and recordkeeping portion of this program was to be exclusively supported by the application fees. The Department, working with the regulated community, determined that twelve inspectors are needed statewide to conduct site visits and inspect the construction of the wells.

Presently, approximately 9500 wells are installed each year and the fee revenue generated by this number of wells is approximately \$600,000. The current revenue amount is sufficient to support only 6.5 inspectors resulting in fewer inspections with some areas of the State inadequately inspected. The funding shortfall can be attributed to inflation and increased fuel prices over the past decade. To address this shortfall in funding, approximately \$880,000 will be required to ensure that the Department adequately implements the residential and irrigation well permitting program as was intended. This fee increase will allow the Department to reach the original goal of twelve inspectors, replace vehicles as they age, and provide for other essential program operating costs, such as gasoline. If this fee increase is approved by the General Assembly, no additional cost will be incurred by the State.

(2) There will be no costs to the state or political subdivisions related to the revision of the appeals language.

### UNCERTAINTIES OF ESTIMATES:

Minimal.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

(1) Implementation of this amendment will not compromise the protection of the environment or the health and safety of the citizenry of the State. The amendment will promote and protect human health by ensuring that a necessary program is fully funded throughout the State and thereby, ensuring safe and healthy individual residential and irrigation wells.

(2) Implementation of this amendment will not compromise the protection of the environment or the health and safety of the citizenry of the State. The amendment will provide consistency with S.C. statutory requirements.

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

(1) Failure by the Department to increase the fee for construction of an individual residential wells or irrigation wells will result in an unacceptable percentage of these wells being poorly constructed, thereby increasing the risk to the health of the individual residents and the potential of contamination to the groundwater aquifers.

(2) Failure by the Department to amend this regulation will result in inconsistency between the State statute and its implementing regulation.

**Statement of Rationale:**

The statement of rationale was determined by staff analysis pursuant to S.C. Code Section 1-23-110(A)(3)(h).

After consultation with the regulated community and the public, this is ultimately an administrative decision by the Department to amend R.61-30 to adjust existing fees to more accurately reflect the actual costs incurred by the Department in implementation of the regulatory program. See Statement of Need and Reasonableness.

**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. 4017  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61

Statutory Authority: 1976 Code Sections 1-23-10 through 1-23-110, 44-1-140(3), and 44-1-150

61-34. Milk And Milk Products

**Preamble:**

Regulation 61-34 ensures that consumers are receiving safe, high quality, Grade “A” raw milk for human consumption; the regulation addresses sanitation standards for milk production facilities (including farms), and addresses food safety and packaging requirements associated with raw milk. The regulation was last amended in 1993. The proposed amendments include food safety standards for raw milk, permit requirements, sampling and reporting requirements, laboratory procedures, labeling standards, enforcement procedures, and other related editorial and stylistic changes as necessary to improve the overall quality of the regulation.

Staff initiated the statutory process for the amendment of R.61-34 by publication of a Notice of Drafting in the *State Register* on June 27, 2008. The most recent drafting comment period ended on July 28, 2008; no comments were received during the drafting comment period. See Discussion of Proposed Revision below and Statement of Need and Reasonableness herein.

Discussion of Proposed Revisions:

SECTION / REVISION

All Sections. The format was changed to make the regulation more user-friendly. Sections outlining “Administrative Procedures” have been eliminated, and requirements set forth in “Administrative Procedures” have been incorporated into the regulation requirements.

Contents. Table of Contents added.

Section I.A. Two definitions changed; seventeen new definitions added, old definitions removed.

Section I.B. General language added to set forth standards for raw milk for human consumption.

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- Section II.A. Language revised to take out references to pasteurized milk and pasteurization operations.
- Section II.B. Authority to impound adulterated or misbranded milk added.
- Section II.C. Language revised to clarify the regulation.
- Section II.D. Language revised to clarify the regulation and take out references to products other than raw milk for human consumption.
- Section II.E. Revised to reflect current nomenclature.
- Section II.F. Language changed to clarify the regulation and to set forth procedures for addressing drug residue adulteration violations, including requirements for handling and disposing of milk that tests positive for drug residue.
- Section III.A. Language revised to clarify the regulation.
- Section III.B. Language revised to clarify the regulation; enforcement procedures moved to a different section.
- Section III.C. Language revised to clarify the regulation; enforcement procedures moved to a different section.
- Section III.D. Language added to give the Department the authority to deny a permit based upon past history.
- Section IV.A. Language revised to clarify the regulation; references to pasteurized milk operations deleted.
- Section IV.B. Labeling requirements for raw milk for human consumption added.
- Section V.A. Language revised to clarify the regulation.
- Section V.B. Language revised to clarify the regulation, and language added to allow immediate action on milk contaminated by processing elements.
- Section V.C. Language revised to clarify the regulation; references to pasteurized milk operations deleted.
- Section V.D. Added to allow inspections as necessary.
- Section V.E. Added for the inspector to identify himself/herself when making inspections.
- Section V.F. Added to allow access for inspections.
- Section V.G. Language revised to clarify the regulation.
- Section VI.A. Added to allow sampling of raw milk for human consumption.
- Section VI.B. Added to require sampling prior to issuing a permit.
- Section VI.C. Added to require testing for pathogenic organisms.
- Section VI.D. Language revised to clarify the regulation.

- Section VI.E. Language revised to clarify the regulation; language added to clarify handling of multiple samples.
- Section VI.F. Language revised to clarify the regulation.
- Section VI.G. Language revised to clarify the regulation.
- Section VI.H. Added to allow testing for pathogenic organisms in response to a suspected disease outbreak.
- Section VI.I. Language revised to clarify the regulation.
- Section VI.K. Added to specify laboratory procedures in testing raw milk samples.
- Section VI.L. Added to specify sampling procedures.
- Section VI.M. Added to specify handling of raw milk samples.
- Section VII.A. Added to specify standards for raw milk for human consumption.
- Section VII.B. Revised to clarify the regulation, move requirements under “Administrative Procedures” into the requirements of the regulation, to delete references to pasteurized milk operations, to incorporate regulation requirements into a more usable format, and to incorporate standards that reflect current practices and procedures in the milk and dairy industry.
- Section VIII.A. Added to establish standards for bottling, packaging and container filling of raw milk for human consumption.
- Section VIII.B. Added to establish standards for container caps, sealers and closers.
- Section IX.A. Revised to clarify the regulation, and to prohibit distribution of raw milk for human consumption that comes from unhealthy animals.
- Section IX.B. Revised to clarify the regulation, and language added to delineate practices for handling animals infected with tuberculosis and/or brucellosis.
- Section IX.C. Added to delineate practices for handling animals with illnesses other than tuberculosis and brucellosis.
- Section IX.D. Added to address animals from outside South Carolina being brought into the state.
- Section IX.E. Added to require adequate records of animal treatments and disposition.
- Section X.A. Added to require producers to have recall procedures and to implement a product recall when conditions warrant such.
- Section XI.A. Revised to clarify the regulation, and to add the reference to Section 44-1-150 of the South Carolina Code of Laws for enforcement.
- Section XI.B. Added to allow for the suspension of a permit when conditions warrant, and delineate when permit suspension is an appropriate enforcement action.
- Section XI.C. Added to delineate when the Department may revoke a permit.

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Section XI.D. Added to sent procedures for the reinstatement of a suspended permit; language added to allow the Department to deny a permit to anyone whose permit has been revoked, based upon past history.

Section XI.E. Added to allow for civil penalties as an enforcement action, and providing for an appeals process for enforcement actions.

Section XII. Severability clause added.

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

Staff of the Department of Health and Environmental Control invite interested members of the public and regulated community to attend a staff-conducted informational forum to be held on October 27, 2008, at 1:00 p.m. in Peeples Auditorium, Third floor of the Sims Building at the South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. The purpose of the forum is to answer questions and receive public comments from interested persons on the proposed amendment of R.61-34. Please use the front entrance of the building facing Bull Street if you plan to attend.

Interested persons are also provided an opportunity to submit written comments to Mr. Jimmy Williamson, Division of Food Protection – Dairy Foods and Soft Drink Bottling Program, Bureau of Environmental Health, S. C. Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. 29201. To be considered, comments must be received no later than 5:00 p.m. on October 27, 2008.

Public comments received at the Forum and/or during the public comment period by the deadline requested above will be considered in formulating the final proposed regulation for public hearing before the Board as noticed below.

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

A hard copy of the Notice of Proposed Regulation and the text of the proposed amendments for public notice and comment may be obtained by contacting Mr. Jimmy Williamson, Division of Food Protection – Dairy Foods and Soft Drink Bottling Program, Bureau of Environmental Health, S. C. Department of Health and Environmental Control, 2600 Bull St., Columbia, S.C. 29201, or by calling (803) 896-0640. Interested persons may also obtain a copy from the DHEC Regulatory Information website at <http://www.scdhec.gov/administration/regs/> by clicking in the DHEC Regulation Development Update. In the Update, click on the Environmental Health category, then scan down for this proposed amendment of R.61-34, and it will link to the text of the proposed regulation on the S.C. Legislature On-line website.

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

Interested persons are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly-scheduled meeting on December 11, 2008. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. 29201. Persons planning to attend the meeting are asked to enter the building at the entrance facing Bull Street. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board's agenda will be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.



**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

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

DESCRIPTION OF REGULATION:

Purpose: The proposed amendments include food safety standards for raw milk, permit requirements, sampling and reporting requirements, laboratory sample testing fees, labeling standards, and enforcement procedures. Amendments will clarify the regulation for raw milk, and will remove references to pasteurized milk, which is covered by R.61-34.1. Other related editorial and stylistic changes have been made as necessary to improve the overall quality of the regulation.

Legal Authority: Sections 44-1-140 et seq., 44-1-150, 1-23-10 and 1-23-110, S.C. Code of Laws, 1976, as amended.

Plan for Implementation: The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and the General Assembly, and publication in the *State Register*. The Department is already regulating the production and sale of raw milk; these amendments will clarify the regulation. The regulated community will be provided copies of the regulation.

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

The proposed regulation will ensure that consumers are receiving relatively safe, high quality Grade “A” raw milk for human consumption; the regulation addresses sanitation standards for milk production facilities (including farms), and addresses food safety and packaging requirements associated with raw milk.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated new costs associated with the implementation of this regulation. There will be a benefit to South Carolina’s environment and the health of its citizens by ensuring that consumers are receiving relatively safe, high quality Grade “A” raw milk for human consumption.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation will ensure that consumers are receiving relatively safe, high quality Grade “A” raw milk for human consumption.

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

Not implementing the regulation will cause a decrease in the sanitary standards in Grade “A” raw milk for human consumption; this decrease in sanitary standards could have a detrimental effect on the health of South

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Carolina's citizens and visitors by increasing the risks of disease and illness associated with raw milk for human consumption. Not regulating the production and sale of raw milk for human consumption will likely lead to a "black market" or "underground market" for the product.

### **Statement of Rationale:**

Raw milk for human consumption is in demand in South Carolina. Rather than ignoring its production and sale, the Department proposes to regulate the production and sale of the product to ensure that consumers are receiving relatively safe "Grade A" raw milk for human consumption.

### **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. 4013  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
CHAPTER 61  
Statutory Authority: 1976 Code Section 44-7-250

61-17. Standards for Licensing Nursing Homes

### **Preamble:**

The Department proposes to revise the regulation to increase licensing fees.

A Notice of Drafting for this proposed revision was published in the *State Register* on May 23, 2008. No comments were received during the drafting comment period. Legislative review will be required.

### Discussion of Proposed Revision:

202.A. This subsection addresses licensing fees (increasing from \$10.00 per licensed bed to \$20.00 per licensed bed and adding "or \$400.00, whichever is greater").

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

The Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum October 28, 2008, at 1:30 p.m. in the 1<sup>st</sup> floor conference room in the Heritage Building at 1777 St. Julian Place, Columbia, South Carolina. The purpose of the forum is to answer questions, clarify any issues, and receive oral or written public comments from interested persons on the proposed amendment of R.61-17.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations by writing to Dennis L. Gibbs, Director, Division of Health Licensing, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 4:00 p.m. on October 28, the close of the public comment period.

Copies of the proposed regulation revision for public notice and comment may be obtained by contacting Mr. Dennis Gibbs at the above address.

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

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed revision of R.61-17 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting December 11, 2008. The public hearing is to be held in Room 3420 (Board Room) of the Commissioner’s Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board’s agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and, as a courtesy, are asked to provide written copies of their presentation for the record.

**Preliminary Fiscal Impact Statement:**

There will not be cost to the Department, the State and its political subdivisions. There will be costs to the regulated community. See Statement of Need and Reasonableness below.

**Statement of Need and Reasonableness:**

This statement of need and reasonableness was determined by staff analysis pursuant to the S.C. Code Ann. Sections 1-23-115(C)(1)-(3) and (9)-(11) (2005).

DESCRIPTION OF REGULATION: Regulation 61-17. Standards For Licensing Nursing Homes.

Purpose of the Regulation: Revision of this regulation is to increase licensing fees from \$10 per licensed bed to \$20 and to add a minimum of \$400, whichever of the two (\$20 per licensed bed or \$400) are greater.

Legal Authority: S.C. Code Ann. Section 44-7-250 (2002).

Plan for Implementation: The proposed revision will take effect upon publication in the *State Register* following approval by the Board and the S.C. General Assembly. The proposed revision will be implemented by providing the regulated community with copies of the regulation or by correspondence and enforced through the internal procedures for initial and annual licensing established by the Department.

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

This regulation revision is needed and reasonable because its development will satisfy a legislative mandate pursuant to S.C. Code Ann. Section 1-23-120 (J) to review Department regulations every five years and amend them as needed.

The regulation was last amended to increase licensing fees February 28, 1992. Since that time there have been increases in costs that have led to the necessity to amend these regulations in order to make fees more up-to-date and commensurate with current expenditure needed to enforce the regulations.

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### DETERMINATION OF COSTS AND BENEFITS:

There will be no cost to political subdivisions of the state. There will be minimal costs to the regulated community. The Department proposes fee increases; the proposed fee of \$20 per licensed bed per year or \$400, whichever greater, is not excessive on a per license basis.

Processing applications for the nursing home licensing program requires considerable commitment of the Department's fiscal resources. Inflation has increased the costs associated with inspections, investigations, processing licenses, and travel. Program costs have been incurred for increased confidentiality requirements of Department records, all contributing to an overall increase in costs to run an effective program. The anticipated growth of elderly citizens needing nursing home care in South Carolina will increase the demands on Department staff and resources. In addition, in expanding its enforcement of the regulation, the Department has increased its onsite consultation efforts to foster regulatory compliance and such activity is an added cost.

Without the increase in licensing fee, the program's ability to continue service to the state's nursing home providers and residents in a timely, effective and efficient manner may be compromised.

Nursing home fees have not increased since 1992. Since FY 1999, the fees have generated less money than needed to operate the program. The program remains under funded until such time as a fee increase is authorized.

Monies generated over and above the costs of the current program go into the general fund to cover the costs of inflation and increased costs incurred over the years. According to the U.S. Department of Labor, Bureau of Labor Statistics, costs have increased on average approximately 3% per year since 1992, and the first six months of 2008 the Consumer Price Index reflected a 4.7% increase. With the probable continued increases in costs, the proposed fee increase is both reasonable and necessary.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation revision will promote public health by updating licensing fees giving the additional resources needed in regulating nursing homes.

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

There will be an adverse effect on the public health if the regulation revision is not implemented since it is likely that continuing to provide inadequate funding of the program may impact the Department's ability to adequately enforce the regulation, ultimately resulting in possible negative health outcomes. There will be possible detrimental effect on public health in general and vulnerable adults specifically because the program may not have the resources to continue vigilant regulatory oversight of nursing home facilities in a timely, effective and efficient manner.

### Statement of Rationale:

Department staff determined during its review of R.61-17 that it was appropriate to revise the regulation. R.61-17 was last amended to increase licensing fees in 1992. See the Statement of Determination of Need and Reasonableness above for more information regarding the factors influencing the Department staff decision to revise the regulation.

**Text:**

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

Document No. 4018  
**DEPARTMENT OF LABOR, LICENSING AND REGULATION**  
**BOARD OF REGISTRATION FOR**  
**PROFESSIONAL ENGINEERS AND SURVEYORS**  
 CHAPTER 49  
 Statutory Authority: 1976 Code Sections 40-22-60, 40-22-130 and 40-1-70

Chapter 49. Board of Registration for Professional Engineers and Surveyors

**Preamble:**

The South Carolina Board of Registration for Professional Engineers and Surveyors proposes to amend existing regulations to be consistent with statutory changes that became effective June 6, 2007 (2007 Act 58). The Board also proposes changes to reflect modernization of professional practice in both engineering and surveying.

Section by Section Discussion

49-100. Definitions.

- Deletes (B)(4)-(8) and (11)-(13) in their entirety; renumbers for clarity.
- (B)(2) Deletes "the practice" as redundant and deletes the last sentence.
- (B)(3) Deletes "land."
- (B)(6) Deletes the last sentence.

49-101. Board Rules of Order/Procedures and Seal of Board.

- No substantive changes except for deleting "Land" in (B).

49-102. Use of Forms/Applications.

- Deletes "land" throughout as redundant.
- (A) Deletes (2) and (4) in their entirety; renumbers for clarity.
- (B)(1) Deletes one sentence in order for applicant's responsibility to the Board regarding references; in (a) and (b) deletes requirement for references to be active in practice; clarifies procedure.

49-103. Fees.

- (A) Deletes fees as Board will determine individual fees.
- (B) Deletes refunds as Board will not refund once an application has been submitted to the Board.

49-104. Examinations--General.

- (A) No substantive changes.
- (B)-(C) deletes "land".
- Deletes (D) and (F) in their entirety; renumbers for clarity.
- (D) is former (E); deletes (1) and renumbers for clarity; in (2) deletes sentence regarding 2 year waiting period after failure of the examination for reapplication.

49-105. License Expiration, Renewal and Reinstatement--Individuals.

- Deletes "land" where necessary throughout.
- (A)(1) deletes redundant language.

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- (A)(2) no substantive change; Deletes (A)(3)-(6) in their entirety.
- (B)(1) deletes references to renewal fees in arrears and replaces with “license has lapsed.”
- (B)(2) deletes references invalidation of license and replaces with “lapsed” and rewords for clarity.
- (B)(3) deletes unnecessary references for clarity.

### 49-106. COA Expiration, Renewal and Reinstatement--Firms.

- Deletes “License” in the title.
- (A)(1) deletes “land” and rewords renewal language.
- (A)(2) rewords for clarity.
- (A)(3) rewords renewal language.
- (B)-(C)(1) no substantive change.
- Deletes (C)(2) in its entirety.

### 49-200. Professional Engineer Licensure Requirements.

- Deletes (A)(1)-(2)(a)(1) in their entirety; renumbers throughout for clarity.
- (A)(1) rewords and adds statute reference for clarity.
- (A)(2) rewords for clarity.
- (A)(2)(a)-(b) no substantive change.
- (A)(2)(c) rewords for clarity; deletes (A)(2)(c)(1)-(4) in their entirety.
- Deletes (A)(3) and replaces text with sentence regarding applicant’s responsibility to ensure the academic institution gives the Board necessary supporting documentation.
- (B)(1)(a) rewords for clarity.
- (B)(1)(b) no substantive change.
- (B)(2) deletes Category in section title; deletes (B)(2)(c)-(d) in their entirety; renumbers and rewords for clarity.
- (B)(3) deletes Category in section title.
- (B)(3)(a)-(d) no substantive changes.
- Deletes (B)(3)(e) in its entirety.
- Deletes (C)(1)(b)-(2)(a) in their entirety; renumbers for clarity.
- Deletes (C)(3) in its entirety.

### 49-201. Professional Surveyor Licensure Requirements.

- Deletes “Land” in title and throughout section where necessary.
- Deletes (A)(1)-(2)(b) in their entirety; renumbers for clarity.
- (A)(2) rewords for clarity.
- (C)(1) deletes last sentence.
- Deletes former (B)(1)(a)-(2)(a).
- Deletes former (C)(1)(a)-(2)(b).
- (D)(1)(a)(2)(c) changes “bachelor of science” to “baccalaureate”.
- Deletes former (D)(1)-(2) in their entirety.
- (D)(1)(b) deletes unnecessary references.
- (E)(1)(a)(2)(a) rewords for clarity.
- (E)(1)(a)(2)(d) changes “bachelor of science” to “baccalaureate”.
- (E)(1)(b) deletes unnecessary references.
- Deletes former (E)(2)(a)-(b) in their entirety.
- (F)(3) rewords for clarity.

### 49-202. Classifications and Scopes of Authority: Engineers and Surveyors.(A)-(C)(2)(a)(4)

- No substantive change.
- (C)(2)(a)(5) Deletes irrelevant information.
- (C)(2)(b) No substantive change.
- (C)(2)(c) Rewords for clarity.

- (C)(3) Rewords for clarity.
- (D) No substantive change.

49-203. Licensure by Comity.

- (A)(1) Rewords for clarity.
- (A)(2) and (3) switched; deletes reference in former (2).
- (A)(4) Deletes in its entirety.
- (B) Rewords for clarity.

49-204. Engineering Registration of Foreign (Non-US) Practitioners and COA's for Foreign (Non-US) Firms.  
Deletes section in its entirety.

49-205. Firm Registration.

- Deletes (A)(1)-(3) and (B) in their entirety; renumbers for clarity; Deletes "land" where necessary throughout.
- (B) Rewords for clarity; deletes unnecessary information.

49-206. Temporary Permits: Engineers; Engineering and Land Surveying Firms.

- Deletes section in its entirety.

49-207. Seals: Individuals and Firms.

- (A) Deletes "land" where necessary throughout.
- (B)-(C) Rewords for clarity.

49-300. Preamble.

- Deletes "land" where necessary throughout.

49-301. Responsibility to the Public.

- Deletes "land" where necessary throughout.

49-302. Competency for Assignments.

- Deletes "land" where necessary throughout.

49-303. Public Statements.

- Deletes "land" where necessary throughout.

49-304. Conflicts of Interest.

- Deletes "land" where necessary throughout.

49-305. Solicitation of Work.

- Deletes "land" where necessary throughout; rewords for clarity.

49-306. Improper Conduct.

- Deletes "land" where necessary throughout; rewords for clarity.

49-400. Purpose.

- Deletes "land" where necessary throughout; rewords for clarity.

49-410. Compliance.

- Deletes "land" where necessary throughout; rewords for clarity.

49-420. General.

- Deletes "land" where necessary throughout; rewords for clarity.

## **48 PROPOSED REGULATIONS**

### 49-430. Nomenclature.

Rewords for clarity; adds new nomenclature.

### 49-440. Classification of Surveys.

Rewords for clarity; adds specific examples of survey classification.

### 49-450. Plats and Platting.

Rewords for clarity; deletes "land" where necessary throughout.

### 49-460. Survey Types and Requirements.

Rewords for clarity; deletes "land" where necessary throughout.

### 49-470. Methods of Marking Property Boundaries.

No substantive change.

### 49-480. Land Descriptions.

Deletes "land" where necessary throughout.

### 49-490. Instruments and Apparatus.

Rewords for clarity; deletes "land" where necessary throughout.

### 49-500. Agreements and Understandings with Other Boards.

Deletes in its entirety (Article 5).

### 49-600. Purpose.

Deletes "land" and year requirements where necessary throughout.

### 49-601. Definitions.

No substantive change.

### 49-602. Requirements.

Deletes redundant language for clarity.

### 49-603. Units of Credit.

No substantive change.

### 49-604. Determination of Credit.

No substantive change.

### 49-605. Record Keeping.

No substantive change.

### 49-606. Exemptions.

Deletes "land" where necessary throughout.

### 49-607. Reinstatements.

No substantive change.

### 49-608. Comity/Out of Jurisdiction Resident.

Deletes in its entirety.

### 49-609. Dual License Holders.

Changes "one-third" to "ten" units obtained separately for each profession.



49-610. Reporting Forms.

Rewords for clarity regarding PDH audits.

**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 a hearing will be conducted at the Administrative Law Court at 11:00 a.m, on Monday, November 10, 2008. Written comments may be directed to Jan B. Simpson, Administrator, South Carolina Board of Registration for Professional Engineers and Surveyors, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Monday, October 27, 2008.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

The Board has determined that these regulations are needed to reflect amendments made by 2007 Act 58.

**DESCRIPTION OF REGULATION:**

Purpose: The Board is updating the regulations to conform to 2007 Act 58 and to clarify existing regulations.

Legal Authority: 1976 Code, 40-22-60, 40-22-130 and 40-1-70.

Plan for Implementation: The amended regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the amended regulations and post the amended 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 proposed regulations will prevent conflict between existing regulations and newer legislation.

**DETERMINATION OF COSTS AND BENEFITS:**

There will be no additional cost incurred by the State or its political subdivisions.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates concerning the regulations.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no effect on the environment. These regulations contribute to the Board's function of protecting public health in the state of South Carolina.

## 50 PROPOSED REGULATIONS

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

#### Statement of Rationale:

The South Carolina Board of Registration for Professional Engineers and Surveyors proposes to amend current regulations to clarify and conform to 2007 Act 58.

#### 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. 4019  
**DEPARTMENT OF LABOR, LICENSING, AND REGULATION**  
**OFFICE OF OCCUPATIONAL SAFETY AND HEALTH**  
CHAPTER 71  
Statutory Authority: 1976 Code Sections 41-3-40 and 41-15-210

71-400 through 71-410. Occupational Safety and Health Act

#### Preamble:

The South Carolina Department of Labor, Licensing and Regulation, Office of Occupational Safety and Health proposes to amend Regulations 71-400 through 71-410 to reflect recent amendments made to the South Carolina Occupational Safety and Health Act by 2008 Act 188.

#### Section-by-Section Discussion:

##### R.71-400. Definitions.

Renumbers in alphabetical order for clarity. Deletes "Department" and adds "Agency"; Deletes "Commissioner" and adds new definition of "Director"; Deletes former definition of "Director" and adds "Administrator"; Deletes "Assistant Director of OSH Compliance" and adds "Compliance Manager"; Changes "Commissioner" to "Director" and adds "and health" after "safety"; Changes "Commissioner" to "Director" and deletes "Department" throughout other definitions.

##### R.71-401. Citation; Notice of De Minimus Violation.

- A.-B. Changes "Assistant Director of OSH Compliance" to "Compliance Manager".
- C. Changes "protest" to "contest"; deletes regulatory reference and adds APA reference and ALC rules.

##### R.71-402. Proposed Penalty.

- A.-B. Changes "Assistant Director of OSH Compliance" to "Compliance Manager".
- C. No substantive change.
- D. Changes "protest" to "contest"; deletes regulatory reference and adds APA reference and ALC rules.

##### R.71-403. Posting of Citation.

No substantive change.

R.71-404. Failure to Correct Violation for Which Citation Has Been Issued.

A. Changes “Assistant Director of OSH Compliance” to “Compliance Manager”.

B.-C. Changes “Commissioner” to “Director”; Changes “protest” to “contest”; deletes regulatory reference and adds APA reference and ALC rules.

R.71-405. Petition for Modification of Abatement.

A. Changes “Assistant Director for Compliance” to “Compliance Manager”.

B. Changes “Assistant Director of OSH Compliance” to “Compliance Manager”.

C. Changes “Assistant Director of/for OSH Compliance” to “Compliance Manager”; replaces “Occupational Health and Safety Review Board” with “Administrative Law Court”.

D. No substantive change.

E. Changes “Assistant Director for OSH Compliance” to “Compliance Manager”.

R.71-406. Informal Conference.

Changes “Assistant Director for OSH Compliance” to “Compliance Manager” throughout; changes “protest” to “contest” throughout; deletes regulatory reference and adds APA reference and ALC rules.

R.71-407. Employer or Employee Protest.

Changes “Protest” to “Contest” in section title and throughout; changes “Commissioner” to “Director” throughout; deletes regulatory reference and adds APA reference and ALC rules throughout.

R.71-408. Failure to Protest.

Changes “Protest” to “Contest” in section title and throughout; changes “Commissioner” to “Director” throughout; deletes regulatory reference; replaces “Occupational Health and Safety Review Board” with “Administrative Law Court”.

R.71-409. Withdrawal, Modification or Amendment to Citation and Proposed Penalty.

Changes “Protest” to “Contest” throughout; changes “Commissioner” to “Director” throughout; replaces “Occupational Health and Safety Review Board” with “Administrative Law Court”.

R.71-410. Abatement Verification.

New section.

**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 a hearing will be conducted at the Administrative Law Court at 9:00 a.m. on Monday, November 10, 2008. Written comments may be directed to Dottie Ison, Administrator, South Carolina Office of Occupational Safety and Health, Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., on Monday, October 27, 2008.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

These regulations are needed to reflect recent amendments made to the South Carolina Occupational Safety and Health Act by 2008 Act 188. Also, these proposed changes will reflect the jurisdiction of the Administrative Law Court to review citations and notifications of failure to abate, with the associated abatement dates and proposed penalties.

## 52 PROPOSED REGULATIONS

### DESCRIPTION OF REGULATION:

Purpose: The Board is updating the regulations to conform to 2008 Act 188.

Legal Authority: 1976 Code, Sections 41-3-40 and 41-15-210.

Plan for Implementation: The revised regulations will take effect upon approval by the General Assembly and upon publication in the State Register. The Department will notify parties to contested cases of the revised regulation at the time their case is docketed and post the revised regulation on the agency's web site.

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

The proposed regulations will implement recent amendments made to the Occupational Safety and Health Act (2008 Act 188).

### DETERMINATION OF COSTS AND BENEFITS:

No additional costs will result from these regulations.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment. These regulations contribute to the Board's function of protecting public health in the state of South Carolina.

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

There will be no detrimental effect on the environment and public health of this State if these regulations are not implemented.

### **Statement of Rationale:**

The updated regulations will reflect recent amendments made to the Occupational Safety and Health Act (2008 Act No. 188) and will reflect the jurisdiction of the Administrative Law Court to review citations and notifications of failure to abate, with the associated abatement dates and proposed penalties.

### **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. 4020  
**PUBLIC SERVICE COMMISSION**  
 CHAPTER 103  
 Statutory Authority: 1976 Code Section 58-3-140

103-133(7). PC&N (Stretcher Vans)

**Preamble:**

The Public Service Commission of South Carolina (Commission) proposes to create new regulations governing stretcher vans. The proposed regulation was previously published in the State Register on April 25, 2008, and the Commission held a public hearing regarding the proposed regulation on Wednesday, June 25, 2008. On August 27, 2008, the Commission voted to retain jurisdiction of the proposed stretcher van regulation at the Commission for further consideration and to reopen the written comment period, giving the public until October 31, 2008, to file written comments on the proposed regulation.

Section-by-Section Discussion

103-133(7). PC&N (Stretcher Vans). This is a new regulation defining stretcher vans and governing driver and assistant driver qualifications/requirements, vehicle requirements, and limitations and conditions of service.

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

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2007-445-A. To be considered, comments must be received no later than 4:45 p.m. on October 31, 2008.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

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

DESCRIPTION OF REGULATION: 26 S.C. Code Ann. Regs. 103-133(7). PC&N (Stretcher Vans).

Purpose: The purpose of the proposed regulation governing stretcher vans is to govern non-emergency transportation provided to a person who cannot be transported in a taxi or wheelchair van due to convalescence or being non-ambulatory. The additional provisions of this regulation state driver qualifications/requirements, vehicle requirements and the limitations and conditions of service by stretcher vans.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2007).

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

## 54 PROPOSED REGULATIONS

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

The addition of a regulation governing stretcher vans is necessary because the regulation defines a stretcher van and the scope of its operation. Further, the regulation will provide guidance to operators/owners of stretcher vans regarding driver and assistant driver qualifications, vehicle requirements, and limitations and conditions of service of stretcher vans. The benefits of a regulation governing the operation of stretcher vans include oversight of public welfare and safety.

### DETERMINATION OF COSTS AND BENEFITS:

Although costs related to creating Regulation 103-133(7) are minimal, the benefits include the promulgation of regulations that govern current unregulated services for a mode of transportation for persons who cannot be transported in a taxi or wheelchair van due to convalescence or being non-ambulatory.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

### **Statement of Rationale:**

The purpose of 26 S.C. Code Ann. Regs. 103-133(7) is to create a regulation that governs stretcher vans. This regulation is needed to provide guidelines for non-emergency transportation for individuals who cannot be transported in a taxi or wheelchair van due to convalescence or being non-ambulatory. The proposed regulation provides vehicle, driver and assistant driver qualifications and further provides for limitations and conditions of service. There was no scientific or technical basis relied upon in the development of this regulation.

### **Text:**

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

Document No. 4005  
**DEPARTMENT OF REVENUE**  
 CHAPTER 117  
 Statutory Authority: 1976 Code Section 12-4-320

117-1350. Deed Recording Fee

**Preamble:**

The South Carolina Department of Revenue is considering amending SC Regulation 117-1350 concerning the deed recording fee to incorporate longstanding Department of Revenue policy concerning common real estate transactions and deed recording fee issues. This policy is presently set forth in an advisory opinion issued by the Department – SC Revenue Ruling #04-6 – and the Department’s deed recording fee manual.

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

All comments concerning this proposal should be mailed to the following address by 5:00 p.m. on October 27, 2008: S.C. Department of Revenue, Legislative Services - Mr. Meredith Cleland, P.O. Box 125, Columbia, South Carolina 29214.

The S.C. Department of Revenue has scheduled a public hearing before the Administrative Law Court in the Edgar Brown Building (Suite 224) on the Capitol Complex (1205 Pendleton Street) in Columbia, South Carolina for Tuesday, December 23, 2008 at 10:00 am if the requests for a hearing meet the requirements of Code Section 1-23-110(A)(3). The public hearing, if held, will address a proposal by the Department to amend SC Regulation 117-1350 concerning the deed recording fee to incorporate longstanding Department of Revenue policy concerning common real estate transactions and deed recording fee issues. The Department will be asking the Administrative Law Court, in accordance with S.C. Code Ann. Section 1-23-111 (2005), to issue a report that the proposal to amend the regulation is needed and reasonable.

**Preliminary Fiscal Impact Statement:**

There will be no impact on state or local political subdivisions’ expenditures in complying with this proposed legislation. There will be a minimal increase to general fund collections.

**Statement of Need and Reasonableness:**

DESCRIPTION OF REGULATION: 117-1350. Deed Recording Fee.

Purpose: To amend SC Regulation 117-1350 concerning the deed recording fee to incorporate longstanding Department of Revenue policy concerning common real estate transactions and deed recording fee issues. This policy is presently set forth in an advisory opinion issued by the Department – SC Revenue Ruling #04-6 – and the Department’s deed recording fee manual.

Legal Authority: Code Section 12-4-320.

Plan for Implementation: After approval by the General Assembly and publication in the State Register, the regulation would be effective upon publication in the State Register.

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

The proposal to amend SC Regulation 117-1350 is needed to ensure that the present regulation concerning the deed recording fee has information concerning common real estate transactions and deed recording fee issues.

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The proposal to amend this regulation is also reasonable in that it represents longstanding Department policy that is consistent with the statute.

### DETERMINATION OF COSTS AND BENEFITS:

Promulgation of this regulation will not have an impact on state or local political subdivisions' expenditures. Promulgation of this regulation will also benefit the State and taxpayers by ensuring that the present regulation concerning the deed recording fee has information concerning common real estate transactions and deed recording fee issues.

### UNCERTAINTIES OF ESTIMATES:

None.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

### Statement of Rationale:

The purpose of this proposal is to amend SC Regulation 117-1350 to ensure that the present regulation concerning the deed recording fee has information concerning common real estate transactions and deed recording fee issues.

The proposal to amend this regulation is also reasonable in that it represents longstanding Department policy that is consistent with the statute.

### 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.



Filed: August 27, 2008 3:17pm

Document No. 4008  
**CLEMSON UNIVERSITY**  
**STATE CROP PEST COMMISSION**  
 CHAPTER 27

Statutory Authority: 1976 Code Sections 46-9-15, 46-9-40 and 46-9-60

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

**Emergency situation:**

Asian citrus psyllid (ACP), *Diaphorina citri* Kuwayama, has been discovered in Charleston County, South Carolina. It is the primary vector for citrus greening, also called Huanglong bing 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. This emergency regulation adds ACP to the list of designated plant pests and promulgates emergency procedures in dealing with the recent discovery of ACP in Charleston County, South Carolina.

**Text:**

1. Asian citrus psyllid (ACP), *Diaphorina citri* Kuwayama, is hereby designated a plant pest, pursuant to Title 46, Chapter 9, Section 15, SC Code of Laws.
2. Effective immediately, a quarantine is placed on Charleston County for ACP. Regulated articles as cited below may not be moved into or within unregulated areas of South Carolina from Charleston County except as outlined hereafter.
3. The following are regulated articles based on the fact that they are plants or plant parts that are hosts of ACP: All plants, budwood, cuttings, or other fresh or live plant parts, except seed and fruit, of: *Aegle marmelos*, *Aeglopsis chevalieri*, *Afraegle gabonensis*, *A. paniculata*, *Atalantia monophylla*, *Atalantia spp.*, *Balsamocitrus dawaei*, *Bergera (=Murraya) koenigii*, *Calodendrum capense*, *X Citroncirus webberi*, *Citropsis articulata*, *Citropsis gilletiana*, *C. schweinfurthii*, *Citrus madurensis (= X Citrofortunella microcarpa)*, *Citrus spp.*, *Clausena anisum-olens*, *C. excavata*, *C. indica*, *C. lansium*, *Eremocitrus glauca*, *Eremocitrus hybrid*, *Fortunella spp.*, *Limonia acidissima*, *Merrillia caloxylon*, *Microcitrus australasica*, *Microcitrus australis*, *M. papuana*, *X Microcitronella spp.*, *Murraya spp.*, *Naringi crenulata*, *Pamburus missionis*, *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Tetradium ruticarpum*, *Toddalia asiatica*, *Triphasia trifolia*, *Vepris (=Toddalia) lanceolata*, and *Zanthoxylum fagara*.
4. In order to be eligible to move interstate from ACP quarantined areas, regulated articles must meet the following requirements:
  - A. Treatment. All regulated articles moving from Charleston County must be treated with any approved treatment for ACP either listed in 7 CFR 305 or listed below in this Order<sup>1</sup> using an Environmental Protection Agency (EPA)-approved product labeled for use in nurseries. Persons applying treatments must follow the product label, its applicable directions, and all restrictions and precautions, including statements pertaining to Worker Protection Standards.
    - i. Regulated articles not intended for consumption must be treated with a drench containing imidacloprid as the active ingredient within 30 days prior to shipping and also be treated with a foliar spray with a product containing either acetamiprid, chlorpyrifos, or fenpropathrin as the active ingredient within 10 days prior to movement.
    - ii. Or, in the case of regulated articles intended for consumption or decorative use, such as fresh curry leaf (*Bergera (=Murraya) koenigii*), or mock orange (*Murraya paniculata*) leaves that are incorporated into leis or

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floral arrangements, this plant material must be treated prior to the interstate movement in accordance with APHIS treatment schedule T101-n-2 (methyl bromide fumigation treatment for external feeding insects on fresh herbs) at the times and rates specified in the treatment manual and safeguarded until movement. As an alternative to methyl bromide fumigation, regulated materials originating from an area not quarantined for CG may be irradiated in accordance with 7 CFR 305.

B. Inspection. All regulated articles that have been treated as provided above must be inspected by an inspector and found free of the ACP within 72 hours prior to shipping. Inspection of curry leaf that is treated with methyl bromide fumigation will not be required since the treatment is considered to be effective in killing all life stages of ACP that might be present.

C. Compliance Agreements. Any person engaged in the business of growing or handling regulated articles for intrastate movement shall enter into a compliance agreement with the Department of Plant Industry to facilitate the movement of regulated articles in accordance with all of the requirements of the above requirements. Such persons must agree to handle, pack, process, treat, and move regulated articles in accordance with state regulations; to use all permits and certificates in accordance with instructions; and to maintain and offer for inspection such records as may be required.

D. Cancellation. Any compliance agreement may be cancelled by an inspector if the inspector finds that the person who entered into the compliance agreement has failed to comply with all of the regulatory requirements.

**Filed: August 14, 2008 2:19pm**

Document No. 4007  
**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.

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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.

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.

**Filed: August 29, 2008 1:24pm**

Document No. 4009

**DEPARTMENT OF NATURAL RESOURCES**

CHAPTER 123

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10 and 50-11-2200

123-40 and 123-52. Dove Management Area Regulations

**Emergency Situation:**

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

**Text:**

WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2008-09

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

Season Dates:

September 1 - October 4 (Sept. 1-6 Afternoons Only): November 22 - November 29: December 19 - January 15

Bag Limit: Mourning Doves: 15 doves per day. No limit on Eurasian collared doves.

The following special regulations apply to all Wildlife Management Area Public Dove Fields: Hunters are limited to 50 shells per hunt. No entry onto fields before 12:00 noon. No shooting after 6:00 p.m. during the first segment of the season (September 1 – October 4).

ABBEVILLE

U.S. Forest Service, Parson Mountain WMA

5 mi. east of Abbeville on SC-72, ¼ mile south on Bass Rd., 40 acres. Special Youth Hunt on Sept. 1 (see Youth Hunt List for details).

1<sup>st</sup> season - Saturdays Only beginning Sept. 13, Afternoons Only. 2<sup>nd</sup> and 3<sup>rd</sup> season - Open Mon - Sat.

## 62 EMERGENCY REGULATIONS

### AIKEN

US Dept of Energy, Crackerneck WMA

From SC 125/CR62 (Silverton Rd) in Jackson, take Silverton 0.4 mi. to Main St., left on Main for 0.4 mi., then right on Brown Rd. for 2.1 mi. Turn left on gravel road, at end of pavement go 0.2 mi. to check station, 40 acres. 1<sup>st</sup> season - Sept. 3 & 17; Oct. 1. Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> season - Fridays, Saturdays & Thanksgiving Day Only.

### ANDERSON

Evans Property - US 178 at Lebanon, 25 acres Saturdays Only, Afternoons Only, Dove Hunting Only. Opening day participants selected by drawing. Apply by Aug. 15 at Clemson DNR office.

Clemson University - Fant's Grove WMA

From US 76/ SC 28 south of Clemson Take SC 187 to Fant's Grove Rd. 1.5 miles W, 45 acres. Sept. 1 & Saturdays Only, Afternoons Only. FIELD CLOSED OCT. 4<sup>TH</sup>.

### \*BERKELEY

U.S. Army Corps of Engineers - Canal WMA (Above Powerhouse) From St. Stephen Take SC 45 west for 1.5 miles or continue to County Rd 35. Go Left about .3 miles, 60 acres. Sept. 6, 20; Oct. 4; Nov. 22; Afternoons Only. Dove & Pigeon Hunting Only.

U.S. Army Corps of Engineers - Canal WMA (Below Powerhouse) From St. Stephen Take SC 45 E for 2.5 miles Turn Left on Paved Road, 40 acres. Sept. 6, 20; Oct. 4; Nov. 22; Afternoons Only. Dove & Pigeon Hunting Only.

### CHARLESTON

Botany Bay Plantation WMA

Located on Edisto Island south of Charleston. To reach WMA take Hwy 174 from US17 towards Edisto Beach. Turn left onto Botany Bay Rd, 8.5 mi. south of the McKinley Washington Bridge (just beyond the Edisto Serpentarium). Proceed down Botany Bay Rd. approx. 2 mi. until just before it ends, the entrance to the WMA is on the left. The dove fields are located approx. 2 mi. from the entrance. Sept. 3, 17, Nov. 29, Dec. 27 & Jan. 10. Afternoons Only.

### CHEROKEE

Gaffney Board of Public Works

From the intersection of I-85 (Exit 95) & Pleasant School Rd (Sec Hwy 82) go 1.2 mi. north on Pleasant School Rd around Lake Whelchel and field is on left (west) side of road, 20 acres. Sept. 1 & Saturdays Only, Afternoons Only. Dove Hunting Only.

### CHESTER

U.S. Forest Service - Worthy Bottoms

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

### CHESTERFIELD

SC Forestry Commission - Sand Hills State Forest

Wilkes Chapel Field. From Sand Hills Forest Headquarters on US 1, Go south on Flory Pond Rd for 1.3 miles, Right on Sec Rd 29 for .2 miles, Field on Right, 54 acres.

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

SC Forestry Commission - Sand Hills State Forest

Davis Field. From the intersection of US 1 and SC 102 in Patrick: Go southeast on SC 102 approx. 1 mi. Bear left on SR 80 and proceed approx. 1.5 mi. Left on Campbell Lake Rd. Continue 0.2 mi. then left on Griggs

Loop Rd. Field entrance 0.1 mi. on the right. 30 acres. 1<sup>st</sup> season - Sept. 1 & Wednesdays Only beginning Sept. 10, Afternoons Only.  
2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. - Sat., Afternoons Only.

**\*CLARENDON**

Santee Cooper - Santee Dam WMA

From the south end of SC 260 follow gravel road at Base of dam for approx. 5 mi., 137 acres. Sept. 1, 13, 27; Nov. 29, Jan. 3. Afternoons Only. Dove Hunting Only.

SC Forestry Commission Oak Lea WMA. From Summerton take SC 26 west for 2 mi., Go north on SC 41 for approx 5 mi., Field on right. 135 ac. Sept. 1, 13, 27; Nov. 29, Jan. 3. Afternoons Only. Dove Hunting Only.

**\*COLLETON**

DNR - Bear Island WMA

From US 17 E of Green Pond, go SE on Rd 26 13 mi., turn left at sign marking entrance, 100 acres. Sept 3 & 17; Nov 29. Afternoons Only.

DNR - Donnelley WMA

From US 17 E of Green Pond, Go southeast on Sec Rd 26 4 miles, Turn Right at Donnelley WMA Sign, Field 2 miles on Right, 100 acres.

Sept. 3 & 17; Nov 29; Dec 20; Jan. 7 & 14. Afternoons Only. On site lottery for 120 hunters on Sept. 3.

**DARLINGTON**

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

**EDGEFIELD/ MCCORMICK**

U.S. Forest Service - Forks WMA

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

**FAIRFIELD**

Crescent Resources LLC

From Ridgeway take US21 N for 9.0 mi., turn right on S-20-101 (River Rd), go 10.8 mi. to 2<sup>nd</sup> Rockbridge Rd S-20-291, turn left for 0.8 mi. to Island Rd, turn right 0.5 mi. to field, 25 acres. Sept. 1 & Saturdays Only, Afternoons Only. Dove Hunting Only.

**GEORGETOWN**

DNR Samworth WMA

15 mi. North of Georgetown off US Hwy 701 North. Cross the Black River. Turn right at Cooter's Store. Travel approx. 6 mi. to Samworth Loop Rd. Turn right onto gravel road and follow signs to Samworth WMA, 60 acres - Saturdays, Afternoons Only, Dove Hunting Only.

**\*HAMPTON**

DNR - Webb Wildlife Center

3 miles west of Garnett on Augusta Stage Coach Rd., 35 acres - Sept 3, 17, & 27; Nov. 26, Dec. 20, Jan 10 Afternoons Only.

**HORRY**

DNR - Waccamaw River Heritage Preserve, Schultz Tract, From Stephens Crossroads on SC 9, Turn north on Sec Rd 57 & Proceed 2.2 miles, Left on Sec Rd 111 & Proceed 2 miles, Left on Oscar Rd., Bear Left & Then Right to Field Entrance, 32 acres. Sept. 1 & Saturdays only, Afternoons Only.

## 64 EMERGENCY REGULATIONS

### LAURENS

DNR - Gray Court Tract

From the intersection of SC Hwy 101 and SC Hwy 14 in Gray Court, go 0.9 mi. south on SC Hwy 14 then left on Dove Rd for 0.3 mi., field is on right (south) side of road, 12 acres.

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

### LEE

Atkinson Property

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

### LEXINGTON

Hallman Field

From I-20 take 178 East for 2.4 mi. to Truex Rd. Turn left on Truex and go 1.2 mi. to Rish Rd. Turn right on Rish and go 0.1 mi. to parking area on left.

Sept. 1 & Saturdays Only, Afternoons Only. Dove Hunting Only.

### MARLBORO

DNR - Lake Wallace WMA

Northwest of Lake Wallace on Sec Rd 47 Bennettsville, Beauty Spot Rd., from Hwy 9 (west of Bennettsville) turn left on Beauty Spot Rd, go 1.9 mi. Field on right. 50 acres.

Saturdays, Afternoons Only. Closed Labor Day. Dove Hunting Only.

### MCCORMICK

U.S. Army Corps of Engineers - Clarks Hill WMA

Bordeaux Work Center, 2.5 mi. south of Bordeaux on Sec. Rd. 110, 40 acres. Sept. 1 & 17; Nov. 26, Jan. 7 only, Afternoons Only.

US Army Corps of Engineers - Key Bridge WMA

0.25 mile north of Parksville on SC-28, 22 acres. 1<sup>st</sup> season - Sept. 1 and Saturdays Only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon.- Sat.

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

U.S. Army Corps of Engineers - Key Bridge WMA

2 miles west of Plum Branch on Sec Rd 57, 30 acres. 1<sup>st</sup> season – Sept. 1 and Saturdays Only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon-Sat.

U.S Forest Service, Clarks Hill WMA, McCombs Tract

11 mi. south of Abbeville or 10 mi. north of McCormick on SC-28, 1.5 mi. west on SR-19. One field on SR-19 and one field on Forest Service Rd F579, 60 acres. 1<sup>st</sup> season - Sept. 1 and Saturdays Only, Afternoons Only. 2<sup>nd</sup> and 3<sup>rd</sup> season - Open Mon-Sat.

### NEWBERRY

SCDOT McCullough Field

From I-26 North on Hwy 121 towards Whitmire 9.2 mi. Right on McCullough Rd., 0.7 mi. Field on right. Saturdays Only Beginning Sept 6, Afternoons Only. Dove Hunting Only.



## OCONEE

S.C. Forestry Commission - Piedmont Forestry Center

From SC 130 north of Salem Turn Left on SC 11 & follow signs to nursery, 18 acres.

Sept. 1 and Saturdays Only, Afternoons Only. Dove hunting Only. 3rd season – Closed.

U.S. Forest Service - Ross Mtn. Field

About 7 miles north of Walhalla on SC 28, Turn on Tunneltown Rd., Turn on Ross Mtn. Rd, Field on Both Sides of road, 35 acres.

1<sup>st</sup> Season, Saturdays - Afternoons Only, Beginning Sept 6. Open 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Saturday Afternoons Only.

## \*ORANGEBURG

Santee Cooper - Santee Cooper WMA

From Santee, Take Highway 6 east approximately 12 miles to Eutaw Springs. Left on FredCon Rd. for 0.3 miles. Left on Ferguson Landing Road for 0.3 miles Left at Santee Cooper WMA sign. Field is 0.3 miles from entrance. 50 acres. Entire WMA under Dove Area Regulations.

Sept. 13 & 27; Nov. 26; Jan. 3. Afternoons Only. Dove Hunting Only.

## PICKENS

DNR Property

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

Clemson University - Gravelly WMA - Causey Tract

From SC 11 Go south on Sec Rd 112 at Cendy's Store, Turn east on Sec Rd 114 & Go 0.5 miles; 25 acres. Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons.

Sept. 1 & Saturdays Only, Afternoons Only.

Porter Field

183 from Pickens, Go 5 miles to Mtn. View Church Rd. Right 1/10 miles, Field on Right.

Saturdays - Afternoons Only, Beginning Sept. 6. 3<sup>rd</sup> Season - Closed. Dove Hunting Only.

## RICHLAND

Richland County - Landfill

From Columbia Take SC 215 north from I-20 for about 6 miles, Turn Left, Then back Right at Landfill Signs & Follow Arrows to Field, 30 acres.

Sept. 1 & 13 Only. 1 pm – 6pm. Dove Hunting Only.

## SPARTANBURG

Santee Cooper

From intersection of US 176 & West Main St. (Sec. Hwy 227) approx. 2.5 miles W. of Pacolet, go 0.1 mile east on West Main St. and turn left on Goldmine Rd. (Sec. Hwy 108) for 4.3 mi. then turn right on Hatchet Dr.

Field at end of road. 15 acres. 1<sup>st</sup> season - Sept. 1 and Saturdays Only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. - Sat., Afternoons Only.

Spartanburg Co Parks & Rec. Dept. - Inman Tract

From the intersection of SC Hwy 292 and New Cut Rd (Sec Hwy 52) near Inman take New Cut Rd to the northwest for 4.8 mi. and field is on the left (southwest) side of the road. 20 acres. Sept. 1 and Saturdays Only, Afternoons Only. Dove Hunting Only.

## 66 EMERGENCY REGULATIONS

### SUMTER

S.C. Forestry Commission - Manchester State Forest

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

Directions from Wedgefield

Bland Field 1 - Take Hwy 261 North 0.7 mi. to Bland entrance sign, turn right and follow dirt road to field.

50 acres Sept. 1 is Youth Hunt Only.

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

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

Tuomey Field - Take SC 763 (Wedgefield Rd) 4 mi. to stop sign. Right on St. Paul Ch. Rd., go 3 mi. to field on right. 50 acres.

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

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

### UNION

DNR Thurmond Tract

From the intersection of SC Hwy 9 and SC Hwy 49 at Lockhart go 4.3 mi. north on SC Hwy 9 and the field is on the left (south) side of road. 15 acres. 1<sup>st</sup> season - Sept. 1 and Saturdays Only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon - Sat., Afternoons Only.

Sedalia (U.S. Forest Service)

From the intersection of SC 49 and Old Buncombe Rd (Sec Hwy 18) near Cross Keys, go 3.6 mi. east on Old Buncombe Rd and turn left on Sedalia Fire Tower Rd (Sec. Hwy 80) for 0.2 mi. and field is on left (northwest) side of road. 15 acres.

1st season - Saturdays - Afternoons Only, Beginning Sept. 6. 2nd & 3rd seasons - Open Mon - Sat., Afternoons Only.

### YORK

DNR - Draper Tract

3.5 miles E of McConnell on SC 322, Turn Right on Sec Rd 165 (Brattonsville Rd), Go .5 miles, Turn Right, Two 30 acres fields.

1st season - Sept. 1 & Saturdays Only, Afternoons Only. 2nd & 3rd seasons Open Mon - Sat., Afternoons Only. Opening day participants selected by drawing. Apply in writing by Aug. 15 to DNR, 124 Wildlife Dr, Union, SC 29379. Limited space available.

York County - Worth Mountain WMA

From Hickory Grove at the intersection of SC Hwy 97 and SC Hwy 211, take Hwy 211 South approx. 4 miles and turn left on Scenic View Rd, go .75 miles and field is on right. 40 acres planted. 1<sup>st</sup> season - Sept. 1 & Saturdays Only, Afternoons Only. 2<sup>nd</sup> & 3<sup>rd</sup> seasons Open Mon-Sat, Afternoons Only.

### SPECIAL YOUTH DOVE HUNTS:

Eligibility for these hunts requires adults 21 years or older to bring 1 or 2 youths 17 years of age and younger. The following regulations also apply on Special Youth Dove Hunts: (1) Adults may actively participate in hunting, but adults may not shoot while accompanying youths are shooting. Adult's gun must be unloaded when accompanying youth is shooting; youths' guns must be unloaded when adult is shooting. (2) Bag limit is 15 birds per youth participant. Birds harvested by adult hunters will count towards this bag limit. Birds

harvested by individual hunters must be kept separate, and in no instance may an individual hunter harvest more than 15 birds.

**ABBEVILLE YOUTH HUNT**

U.S. Forest Service - Parson Mountain WMA

September 1. Participants selected by drawing. Apply in writing or call by August 15 to SCDNR, 2751 Hwy 72 East, Abbeville, SC 29620. Limited space available.

**NEWBERRY YOUTH HUNT**

SCDOT - McCullough Field

September 1. Limited Space Available.

**OCONEE YOUTH HUNTS**

U.S. Forest Service - Long Creek Tract

In order to hunt, adults must have at least 1 or 2 youth age 17 or younger. Disability hunters must contact the U.S. Forest - Andrew Pickens Office for permit requirements and access. From Westminster take Hwy 76 to Long Creek, take a left on Orchard Rd, proceed  $\frac{3}{4}$  mi. to field on right. 20 acres 1st season - Sept. 1 - Oct. 4 (Saturdays Only - Afternoons Only). 2nd season - November 22. (Afternoons Only). 3rd season - Closed.

U.S. Forest Service, Ross Mtn. Field

September 1. Participants selected by drawing. Limited Space Available.

**\*ORANGEBURG YOUTH HUNT**

Santee Cooper - Santee Cooper WMA

0.5 mi. northeast of Eutaw Springs, 50 acres. September 1. No pre-registration required.

**PICKENS YOUTH HUNT**

Porter Field - September 1. Participants selected by drawing. Limited Space Available.

**SUMTER YOUTH HUNT**

Manchester State Forest near Wedgefield. Bland Tract - Field 1. September 1. Limited space available.

**UNION YOUTH HUNT**

U.S. Forest Service near Sedalia - September 1. Limited space available. Participants selected by drawing.

**YORK YOUTH HUNT**

DNR Draper WMA. September 1. Participants selected by drawing. Limited Space Available.

**Statement of Need and Reasonableness:**

Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on new WMAs as well as expanding use opportunities on existing WMAs. Since the availability of specific fields changes each year and season dates change as allowed by Federal Regulation it is necessary to file Dove Field regulations annually. Because these hunts begin on September 2, it is necessary to file these regulations as emergency so they take effect immediately.

**Fiscal Impact Statement:**

This amendment of Regulation 123.40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

## 68 EMERGENCY REGULATIONS

Filed: August 29, 2008 1:23pm

Document No. 4011  
**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123

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

### 123-40. Hunt Units and Wildlife Management Area Regulations

#### **Emergency Situation:**

This amended regulation sets seasons, bag limits and methods of hunting and taking of wildlife on Wildlife Management Areas. Amendments are needed to allow a special deer herd reduction hunt on Croft State Natural Area. Because the hunts begin on September 17 it is necessary to file these regulations as emergency so they take effect immediately.

#### **Text:**

### 123-40. Hunt Units and Wildlife Management Area Regulations

#### 1.2 (X) Croft State Natural Area WMA

Archery-Crossbow Deer Hunts	Sept. 17-18	3 Deer Per Day, either-sex
	October 1-2	Max.1 antlered buck per day
	October 15-16	
	November 5-6	

#### Hunt Procedure/ Special Rules and Regulations

1. All hunters are required to check-in and obtain a daily permit at the checkpoint at the Maintenance Shop near the main gate on or prior to each day of the hunt period. The checkpoint will be open on the day of the hunt approximately 2 hours before official sunrise and the day before each hunt period from 3:00 pm to 8:00 pm.
2. All hunters must leave their hunt area immediately after dark and must report to the checkpoint to checkout no later than one hour after official sunset. Failure to checkout in a timely manner will result in a citation. Those persons needing to return to the hunt area to look for a wounded deer or to retrieve a dead deer must notify PRT or DNR personnel at that time.
3. Scouting is allowed during normal park hours and days prior to each hunt period. Daily admission fees apply, except days of applicant's hunt.
4. Parking is allowed only on park property inside the property boundaries and along roads inside the interior portion of the park. The daily hunt permit must be displayed on the dash of all vehicles parked on state park property. A parking area will be provided near the old ammo dump just off Dairy Ridge Road but parking is not allowed along Dairy Ridge Road. Do not park where a gate is being blocked. The bridge on Dairy Ridge Road is out and the check station cannot be accessed from S.C. Hwy 295.
5. Portable stands may be placed one day prior to your scheduled hunt and must be removed no later than one day following each hunt period. Screw-in steps must be removed and no permanent spikes or nails are allowed.
6. Only Archery equipment including crossbows is permitted. Hunters are allowed to carry only one type of equipment at a time.
7. Hunters must wear either a hat, coat or vest of international orange during all hunts except while occupying an elevated stand more than six feet above the surface level.
8. Hunters may use boats with electric trolling motors only to enhance hunter access. Running lights and all other safety equipment are required.

9. The use of a trail dog on a leash will be allowed for the recovery of wounded deer from 11:00 am to 3:00 pm and after dark. You must notify PRT or DNR before a dog is utilized.
10. Hunters will not be allowed to use ATV's.
11. Camping is available at Croft State Natural Area.
12. The daily bag limit is 3 deer per day including no more than one antlered buck.
13. Field dressing of deer is allowed in the woods but entrails should not be left closer than 200 yards from any road, trail or facility. Hunters should not attempt to dig in the ground to bury entrails because of safety concerns regarding buried ordnance (See safety requirements sheet). Field dressing of deer will not be allowed at the check station near the Maintenance Shop.
14. All harvested deer must be promptly brought to the deer check station at the Shop near the main gate.
15. Firearms or alcoholic beverages are not allowed within the park.
16. Hunters who harvest antlerless deer (including does and button bucks) will be pre-selected to attend the following year's hunt if one is conducted.
17. All State Parks, Recreation and Tourism (PRT) and all Wildlife Management Area (WMA) rules and regulations apply.

**Statement of Need and Reasonableness:**

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow a special deer herd reduction hunt on Croft State Park. Because the hunts begin on September 17 it is necessary to file these regulations as emergency so they take effect immediately.

**Fiscal Impact Statement:**

This amendment of Regulation 123.40 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

**Filed: August 14, 2008 2:50pm**

Document No. 4006

**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 begin August 15 it is necessary to file these regulations as emergency.

## 70 EMERGENCY REGULATIONS

### 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 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.

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

#### 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

2 deer per day, buck only, Hogs  
no limit.

Dec 12

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

2 deer per day, buck only.  
Hogs no limit. Doe tags must be  
used except on county either-sex  
days.

	Dec 1-6 Dec. 26 - Dec. 31	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. 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.

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### 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  Oct 18	2 deer per day, buck only. Hogs no limit.  2 deer per day, either-sex. Hogs no limit.
Youth only deer hunt with dogs.	Jan 3	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 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.
Dog Drive Hunts (Shotguns only)	Aug 29-30 Oct 22-23, Dec 5  Sept 20	2 deer per day, buck only. Hogs no limit.  2 deer per day, either-sex. Hogs no limit.
Youth only deer hunt with dogs.	Oct 4	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 Bonneau Ferry entrance or M & B Alvin Community Mart.

### Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because some hunts begin on August 15, it is necessary to file these regulations as emergency so they take effect immediately.



**Fiscal Impact Statement:**

This amendment of Regulation 123.40 will result in increased public hunting opportunities that should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

**Filed: August 29, 2008 1:23pm**

Document No. 4012  
**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

123-52. 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

**Emergency Situation:**

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

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.

**Text:**

123-40. Wildlife Management Area Regulations.

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

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

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

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

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### (B) Game Zone 2

**John C. Calhoun, Cokesbury, Clarks Hill, Parsons Mountain, Key Bridge, Forks, Ninety-six, Goldmine, Murray, Enoree, Fairforest, Keowee, Fant's Grove, Carlisle, Broad River, Dutchman, Wateree and Worth Mountain WMA's.**

Primitive Weapons Hunts (No dogs)	Oct. 1 - Oct. 10	2 Deer, buck Only for muzzleloaders except either-sex on days specified in Reg. 4.2. Archery, either-sex.
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### (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 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.	Total of 8 deer for all gun and muzzleloader hunts on the Francis Marion.
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### (H) Moultrie

Deer	Total of 8 deer per season.
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Unless in an elevated stand, there shall be no hunting or shooting from, on, or across any road during gun hunts for deer.

### (I) Santee Cooper WMA

Data cards required for hunter access. Completed data cards must be returned daily upon leaving Santee Cooper WMA.

Deer	Total 8 deer per season for all hunts combined, no more than 2 bucks.
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Quality Deer Management Area – Only antlerless deer, spike bucks (2 points) and bucks with a minimum 4 points on one side or a 12-inch minimum antler spread. A point must be at least one inch long measured from the nearest edge of main beam to the top of the point. Campground is open during scheduled deer hunts only.

Archery	First full week in Oct. (Mon. – Sat.)	2 deer per day, either-sex, no more than 1 buck per day.
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Archery and Muzzle Loader	Second full week in Oct.(Mon.-	2 deer per day, either-sex,
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Sat.), First full week in Nov.(Mon. - Sat.), Second full week in Dec. (Mon. – Sat.) no more than 1 buck per day.

Small Game 1<sup>st</sup> Mon. after the closing of the last deer hunt through Mar. 1, except raccoon hunting each Fri. and Sat. Game Zone 6 Bag limits, except Quail - 8 per day.

**(J) Webb WMA**

Quail Hunts Quail hunters must pick-up and return data cards at kiosk 2<sup>nd</sup> and 4<sup>th</sup> Wed. in Jan. 8 quail per day. 2<sup>nd</sup> and 4<sup>th</sup> Sat. in Jan. 1<sup>st</sup> and 3<sup>rd</sup> Sat. in Feb. 1<sup>st</sup> and 3<sup>rd</sup> Wed. in Feb.

Still Hog Hunts (no dogs) 3<sup>rd</sup> Thurs. – Sat. in March No limit. Archery, crossbows, 2<sup>nd</sup> Thurs. – Sat. in May centerfire rifles, muzzleloading 1<sup>st</sup> Thurs. – Sat. in Sept. rifles, centerfire handguns and shotguns with slugs only.

**(L) Santee Delta WMA**

Deer and hog hunters must sign in and out and complete a data card on harvested animals at the check Station on the East Side of the Delta.

Special hog hunt 3<sup>rd</sup> Wed., Thurs., Fri. in March. Hogs only, no limit, no live Shotgun with slug or (impoundments only) to be removed from WMA. muzzleloader, no buckshot, hunting from elevated stands only.

Special hog hunt with dogs 3<sup>rd</sup> and 4<sup>th</sup> Sat. in March Hogs only, no limit, handguns (impoundments only) only, limit 4 bay or catch dogs per party. No live hogs removed from WMA.

**(P) Pee Dee Station Site WMA**

Deer Total of 3 for all hunt periods combined.

Still hunting only, no deer dogs, no buckshot, no hunting or shooting from or on any roads open to vehicular traffic. The scouting seasons are 3-day periods on Saturday through Monday immediately proceeding hunt

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periods. Data cards required for access. Completed data cards must be returned daily upon leaving Pee Dee Station Site WMA.

### **(R) Santee Coastal Reserve WMA**

Deer hunters must sign in and sign out and complete a data card on harvested animals.

### **(S) Other Small WMAs**

#### **Aiken, Lexington and Richland Counties**

Deer

Still Gun Hunts  
and Archery  
(No dogs)

No hunting before  
Sept. 1 or after Jan. 1.

Game Zone 3 bag limits.  
Buck only, except on Game  
Zone 3 either-sex days as  
specified in Reg. 4.2.  
Individual antlerless deer tags  
are valid on other "unnamed"  
WMAs starting Sept. 15. Tags  
do not alter daily or season bag  
limits.

#### **Chesterfield, Kershaw, Dillon & Marlboro Counties**

Still Gun Hunts  
and Archery  
(No Dogs)

Sept. 15 - Jan. 1

Total 10 deer for all gun  
hunts, 2 per day, buck only  
except on Game Zone 4 either-  
sex days as specified in Reg.  
4.2. Individual antlerless deer tags  
are valid on other "unnamed" WMAs  
starting Sept. 15. Tags do not alter  
daily or season bag limits. Limit of  
10 may not include more than 5  
bucks. Male deer required 2 inches  
of visible antler above the hairline  
to be legal. Male fawns (button  
bucks) are considered antlerless  
deer, legal only during either-sex  
hunts; however, they apply toward  
the buck limit.

#### **Darlington, Lee & Sumter Counties**

Archery

Sept. 1 - Jan. 1

Total 5 deer per season, buck  
only, except on Game Zone 5  
either-sex days as specified in  
Reg. 4.2. Individual antlerless deer  
tags are valid on other "unnamed"  
WMAs starting Sept. 15. Tags do  
not alter daily or season bag  
limits.

Still Gun Hunts (No dogs) No buckshot.	Sept. 15 - Jan. 1	Total 5 deer per season, buck only except on Game Zone 5 either-sex days as specified in Reg. 4.2. Individual antlerless deer tags are valid on other “unnamed” WMAs starting Sept. 15. Tags do not alter daily or season bag limits.
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**(T) Woodbury WMA**

Special Hog Still Hunt (No dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	Mar. 1 – 3 <sup>rd</sup> Sat. in Mar.	Hogs no limit.
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Raccoons	Wed. - Sat. nights beginning Sat. after Thanksgiving – last Wed. or Sat. in Feb.	3 per party per night.
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**(W) Marsh WMA**

Special Hunt Area for Youth and Mobility Impaired Hunters	No open season except for hunters selected by drawing.	1 deer per day, either-sex.
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Special Hog Still Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	3 <sup>rd</sup> Mon. in Nov. – following Sat. Mar. 1st – 3rd Sat. in Mar.	Hogs Only, no limit, no bay or catch dogs.
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**(X) Hamilton Ridge WMA**

Deer Muzzleloader and archery (No dogs)	1 <sup>st</sup> full week in Nov.	2 deer per hunt period, either-sex, only 1 buck. Hogs no limit.
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Special Hog Still Hunt (no dogs) Archery, crossbows, Centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	3 <sup>rd</sup> Thurs. – Sat. in March 2 <sup>nd</sup> Thurs. – Sat. in May 1 <sup>st</sup> Thurs. – Sat. in Sept.	No limit.
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### Quail Hunts

Quail hunters must	2 <sup>nd</sup> and 4 <sup>th</sup> Wed. in Jan.	8 quail per day.
pick-up and return	2 <sup>nd</sup> and 4 <sup>th</sup> Sat. in Jan.	
data cards at kiosk	1 <sup>st</sup> and 3 <sup>rd</sup> Sat. in Feb.	
	1 <sup>st</sup> and 3 <sup>rd</sup> Wed. in Feb.	

### (AA) Little Pee Dee River Complex WMA

Raccoon	Wed. – Sat. nights beginning Sat. after Thanksgiving – the last Wed. or Sat. in Feb.	3 per party per night.
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Special Hog Still Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	March 6 - 3 <sup>rd</sup> Sat. in March	Hogs only, no limit, no bay or catch dogs.
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### (BB) Great Pee Dee River WMA

Deer Hunts	Total 3 deer for all hunts.
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For big game hunting, access is restricted from two hours before sunrise to two hours after official sunset. Data cards required for hunter access. Completed data cards must be returned daily upon leaving Great Pee Dee River WMA. Still hunting only, no deer dogs, no buckshot, no hunting from motor vehicles or boats, no hog dogs. Hogs may be taken only during deer hunts or special hog hunts. Firearms must be unloaded and cased and not readily accessible when not in legal use.

Special Hog Still Hunt (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	1 <sup>st</sup> Mon. in Dec. – the following Sat. 2 <sup>nd</sup> Mon. in Dec. – the following Sat. 3 <sup>rd</sup> Mon. in Dec. – the following Sat. 1 <sup>st</sup> Mon. in Feb. - the following Sat. 2 <sup>nd</sup> Mon. in Feb. – the following Sat.	Hogs only, no limit.
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### (CC) Hickory Top WMA

Data cards required for hunter access. Completed data cards must be returned daily upon leaving Hickory Top WMA.

### (DD) Palachucola WMA

#### Deer Hunts

Deer hunting or shooting will not be allowed from or on roads open to vehicle traffic. All deer hunters are required to sign-in and sign-out daily.

Archery (No Dogs)	Sixteen hunting days beginning the last Wed. in Sept.	3 deer, either-sex, except only 1 buck with a minimum 4 points on one side or a minimum 12-inch antler spread.
Muzzleloader and Archery (No dogs)	3 <sup>rd</sup> Thurs. – Sat. in Dec.	3 deer, either-sex except only 1 buck with a minimum 4 points. on one side or a minimum 12-inch antler spread.
Quail Hunts Quail hunters must pick-up and return data cards at kiosk	2 <sup>nd</sup> and 4 <sup>th</sup> Wed. in Jan. 2 <sup>nd</sup> and 4 <sup>th</sup> Sat. in Jan. 1 <sup>st</sup> and 3 <sup>rd</sup> Sat. in Feb. 1 <sup>st</sup> and 3 <sup>rd</sup> Wed. in Feb.	8 quail per day.
Still Hog Hunts (no dogs) Archery, crossbows, centerfire rifles, muzzleloading rifles, centerfire handguns and shotguns with slugs only.	3 <sup>rd</sup> Thurs. – Sat. in March 2 <sup>nd</sup> Thurs. – Sat. in May 1 <sup>st</sup> Thurs. – Sat. in Sept.	No limit.

**(EE) St. Helena Sound Heritage Preserve WMA**

Otter Island Raccoon	Sat. during Jan. & Feb.	Game Zone 6 limits.
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**(FF) Waccamaw River Heritage Preserve WMA**

Deer		Total 2 deer per season Hogs no limit.
Hog hunt with dogs	1 <sup>st</sup> & 2 <sup>nd</sup> Sat. in March	No limit, sidearms only, no More than 4 bay or catch dogs per party, no live hogs removed from WMA.

**(HH) Canal WMA**

Hunters must pick up and return data cards at access points. Shotguns must be plugged so as not to hold more than 3 shells.

Quail	1 <sup>st</sup> Wed. after opening day of quail season and every other Wed. and Sat. thereafter until Mar. 1.	Total 8 per day.
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### (OO) Santee Dam WMA

Small Game Jan. 2 through Mar. 1. Game Zone 5 bag limits.  
No open season on  
fox squirrels.

### (UU) Wee Tee WMA

Raccoon Sept. 15 – March 1 (nights only) 3 per party per night.

### (VV) Bonneau Ferry WMA

No camping is allowed. No person hunting on Bonneau Ferry WMA may possess, consume, or be under the influence of intoxicants including beer, wine, liquor or illegal drugs. All terrain vehicles are prohibited. Hunting access by boat is prohibited. Adult/youth fishing only. For fishing, youth must be accompanied by no more than two adults 18 years old or older. For hunting, Adult/youth Side A is open only to youth 17 years old or younger who must be accompanied by only one adult 21 years of age or older. Youth hunters must carry a firearm and hunt. Adults with youth hunters may also carry a firearm and hunt. For deer and small game hunting Sides A and B will alternate each year. All hunters must sign in and sign out upon entering or leaving Bonneau Ferry WMA. All deer must be checked out at the main entrance. Bonneau Ferry WMA is closed to public access one hour after sunset until one hour before sunrise except, for special hunts regulated by DNR. Hunters may not enter WMA prior to 5:00 AM on designated hunts. All impoundments and adjacent posted buffers are closed to all public access Nov. 1 – Mar. 1 except for special draw deer hunts and waterfowl hunts regulated by DNR during the regular waterfowl season. No fox or bobcat hunting. Hogs may be harvested during any scheduled hunt.

#### Side A (Adult/Youth Only)

Draw deer hunts are for two and one half days (afternoon on the first day and 2 full days). Hunt periods begin in September and continue until early December. Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day). Area is closed to the general public access during scheduled deer, turkey and waterfowl hunts.

Quail (Side B) Open every other Sat. beginning Limit 8 per day.  
Shotguns must be plugged to Feb. 1 through Mar. 1.  
Hold no more than 3 shells.  
Hunters must pick up,  
Accurately fill out and return  
data card at the main entrance.

### (YY) Botany Bay Plantation WMA

All hunters, fishermen, and visitors must sign in and sign out upon entering or leaving Botany Bay Plantation WMA. Botany Bay Plantation WMA is closed to public access one hour after sunset until one hour before sunrise, except for special events regulated by DNR. Area is closed to general public access during scheduled deer and turkey hunts. Hunting in designated areas only. Hunting access by boat is prohibited. Fishing in the Jason's Lake complex and all other ponds is adult/youth catch and release only on designated days. For adult/youth fishing, youth must be accompanied by no more than two adults 18 years old or older. Adult may also fish.



Deer

Archery	1 <sup>st</sup> Mon. after Sept. 15 until the 1 <sup>st</sup> Sat. in Oct.; 3 <sup>rd</sup> Mon. in Dec. until the following Sat.	Total 3 deer, either-sex but only 1 buck with a minimum 4 points on one side or a 12” minimum antler spread.
Still Gun Hunts (No dogs)	No open season except for hunters selected by computer drawing.	Total 3 deer, either-sex but only 1 buck with a minimum 4 points on one side or a 12” minimum antler spread.

Draw deer hunts are for two and one half days (afternoon on the first day and 2 full days). Hunt periods begin in September and continue into December. Hunters are required to have permit in possession and must sign in and sign out (Name, permit # and deer killed each day) at the designated check station. All harvested deer must be checked in at the designated check station.

Small Game No open season for fox squirrels or foxes. Dogs allowed during gun seasons only. Raccoons and Opossum	Jan. 2 – Mar. 1 Wed. and Sat. Only  Jan. 2 – Mar. 1	Game Zone 6 bag limits, except quail 8/day.  Game Zone 6 bag limits.
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**(ZZ) Old Island Heritage Preserve WMA**

Deer

Archery	Sept. 15 – Jan. 1	Total 2 deer per season. 1 deer per day, either-sex.
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2.6 On all WMA lands, baiting or hunting over a baited area is prohibited. As used in this section, "bait" or "baiting" means the placing, depositing, exposing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat, or other grain or other food stuffs to constitute an attraction, lure, or enticement to, on, or over any area. "Baited area" means an area where bait is directly or indirectly placed, deposited, exposed, distributed, or scattered and the area remains a baited area for ten (10) days following the complete removal of all bait. Salt/minerals are not considered bait.

2.7 On WMA lands construction or use of tree stands is prohibited if the tree stand is constructed by driving nails or other devices into trees or if wire is wrapped around trees. Other tree stands and temporary screw-in type climbing devices are permitted provided they are not permanently affixed or embedded in the tree. All stands must be removed by the end of the deer hunting season.

2.11 While participating in a hunt on WMA’s, no person may possess, consume or be under the influence of intoxicants, including beer, wine, liquor or drugs.

3.1 On WMA lands hunters may use any shotgun, rifle, bow and arrow, crossbow or hand gun except that specific weapons may be prohibited on certain hunts. Small game hunters may possess or use shotguns with

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shot no larger than No. 2 or .22 rimfire or smaller rifles/handguns or primitive muzzle-loading rifles of .40 caliber or smaller. Small game hunters may not possess or use buckshot, slugs or shot larger than No. 2. Blow guns, dart guns or drugged arrows are not permitted. Small game hunters using archery equipment must use small game tips on the arrows (judo points, bludgeon points, etc.).

3.2 For Special Primitive Weapons Seasons, primitive weapons include bow and arrow, crossbow and muzzle-loading shotguns (20 gauge or larger) and rifles (.36 caliber or larger) with open or peep sights or scopes, which use black powder or a black powder substitute that does not contain nitro-cellulose or nitro-glycerin components as the propellant charge. There are no restrictions on ignition systems (e.g. flintstone, percussion cap, shotgun primer, disk, electronic, etc.). During primitive weapons season, no revolving rifles are permitted.

4.2 Deer either-sex days for gun hunts are as follows:

Game Zone 1: The first three Saturdays in November.

Game Zones 2 - 6: Every Saturday from October 1 to the Saturday after Thanksgiving day inclusive; Saturdays in December beginning 23 days after Thanksgiving day; and the last day of the open season.

In Game Zones 1 and 2 hunters using archery equipment may take either-sex during any open season for deer.

On special mobility impaired and youth and deer hunts sanctioned by the department and during the statewide youth deer hunt day, participants may take antlerless deer, 2 per day.

5.2 On all WMA lands in Game Zones 1 and 2, beagles may not be used for rabbit hunting during still gun hunts for deer or bear. Beagles may be used from the close of the season for deer until the close of the rabbit season. Beagles may be trained for rabbit hunting from September 1 through September 30 (no guns).

5.4 The Department may permit deer hunting with dogs on WMA areas not located in Game Zones 1 and 2. For the purposes of tracking a wounded deer, a hunter may use one dog which is kept on a leash.

7.1 On all WMA lands during any gun and muzzleloader hunting seasons for deer, bear and hogs, all hunters including small game hunters must wear either a hat, coat, or vest of solid visible international orange, except hunters for dove, turkey and duck are exempt from this requirement while hunting for those species.

10.8 During the period 01 Nov. - 01 Mar. except for special hunts designated by the Department, Sandy Beach Waterfowl Area is closed to public access and impoundments on Bonneau Ferry WMA are closed to public access.

10.9 Broad River Waterfowl Management Area is closed to public access during the period 01 Nov.-01 Feb. except for special hunts designated by the Department.

10.10 Impoundments on Bear Island, Donnelly, Samworth, Santee Coastal Reserve and Santee Delta WMAs are closed to all public access during the period 15 Oct.- 8 Feb. except during special hunts designated by the Department. All public access during the period 01 Feb.- Oct. 14 is limited to designated areas. On Bear Island WMA, Mathews' Canal is closed to all hunting from Nov. 1 – Feb. 15 beyond a point 0.8 mile from the confluence of Mathews' Canal with the South Edisto River.

10.14 The Francis Marion National Forest and Crackerneck WMA, are open during special small game seasons within the regular migratory bird seasons; Fant's Grove WMA is open AM only on Wednesdays and Saturdays during the regular migratory bird seasons; Palachucola WMA, Tillman Sand Ridge WMA,

Hamilton Ridge WMA and Webb WMA are open AM only for waterfowl hunting during special small game seasons within the regular migratory bird seasons.

10.16 Category II Designated Waterfowl Areas include Biedler Impoundment, Carr Creek (bounded by Samworth WMA), Little Carr Creek (bounded by Samworth WMA), Lake Cunningham, Russell Creek, Monticello Reservoir, Parr Reservoir, Duncan Creek, Dunaway, Dungannon, Enoree River, Moultrie, Hatchery, Hickory Top, Hickory Top Greentree Reservoir, Lancaster Reservoir, Turtle Island, Little Pee Dee River Complex (including Ervin Dargan, Horace Tilghman), Great Pee Dee River, Potato Creek Hatchery, Sampson Island Unit (Bear Island), Tyger River, Marsh, Wee Tee, Woodbury, Ditch Pond, Waccamaw River Heritage Preserve and 40 Acre Rock Waterfowl Management Areas. Hunting on Category II Designated Waterfowl Areas is in accordance with scheduled dates and times.

**DESIGNATED WATERFOWL AREAS**

Area	Open dates inclusive	Bag Limits
Waccamaw River HP	Wed. and Sat. AM only during the regular season.	Federal Limits
40 Acre Rock	Sat. AM only during regular season.	Federal Limits

10.21 On Enoree River, Dunaway, Duncan Creek, Russell Creek and Tyger River Waterfowl Areas data cards are required for hunter access during scheduled waterfowl hunts. Completed data cards must be returned daily upon leaving each of these areas.

10.22 Woodbury Waterfowl Management Area includes all SCDNR-owned property south of US Hwy 378 and bounded on the west by the Great Pee Dee River and Bluff Road and to the east by the Little Pee Dee River except no waterfowl hunting allowed in the area known as Hass Pond that is bounded on all sides by Hass Pond Road.

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

Game Zone 1: The first three Saturdays in November.

Game Zone 2-6: Every Saturday from October 1 to the Saturday after Thanksgiving Day inclusive; Saturdays in December beginning 23 days after Thanksgiving Day; and the last day of the open season.

The daily bag limit on either-sex days is 2 antlerless deer.

In Game Zones 1 and 2 hunters using archery equipment may take either-sex during any open season for deer.

On special mobility impaired and youth and deer hunts sanctioned by the department and during the statewide youth deer hunt day, participants may take antlerless deer, 2 per day.

**123-55. Regulations for the Use of Fertility Control or Other Chemical Substances in Wildlife (50-11-96).**

A permit is not required by a licensed pesticide applicator using registered pesticides for the control of English sparrows, feral pigeons, and European starlings.

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### Statement of Need and Reasonableness:

Periodically additional lands are made available to the public through the Wildlife Management Area Program. Since existing regulations only apply to specific wildlife management areas, new regulations must be filed to establish seasons, bag limits and methods of hunting and taking of wildlife on these new WMAs as well as expanding use opportunities on existing WMAs. Amendments are needed to allow additional opportunity. Because some hunts begin on September 1, it is necessary to file these regulations as emergency so they take effect immediately.

### Fiscal Impact Statement:

This amendment of Regulation 123-40 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. Regulation 123-55 will result in continuing the economic benefits of licensed pesticide applicators in control of English sparrows, feral pigeons and European starlings.

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**DEPARTMENT OF NATURAL RESOURCES**  
CHAPTER 123  
Statutory Authority: 1976 Code Section 50-15-65

123-151. Regulations for Species or Subspecies of Non-game Wildlife

### Emergency Situation:

Act 179 (S452) was passed by the SC General Assembly and became law in February, 2008. This act established new alligator management options and specifies that the SC Department of Natural Resources will modify existing programs and create new programs for the management and harvest of alligators. Because there was not sufficient time to promulgate new regulations it is necessary to file emergency regulations that will replace the current 123-151 with these emergency regulations thus fulfilling the intent of the new law.

### Text:

123-151. Regulations for Species or Subspecies of Non-game Wildlife

#### A. Alligator Harvest

1. The size and number of all alligators to be taken will be specified by the Department on permits provided with harvest tags. A permit holder may only take and/or possess alligators identified by the Department and only in the manner specified by the Department.

2. All who take or attempt to take an alligator must have a copy of the harvest permit along with an unused harvest tag with them while afield.

3. Once an alligator is killed and before it is transported, a harvest tag must be attached and locked within six inches of the tip of the tail. In the event that an alligator harvest tag is defective and is not usable for the purpose intended, or becomes detached from the alligator hide, the Department must be notified immediately. The Department will be responsible for the replacement of defective, but not lost, tags. The alteration of harvest tags is strictly prohibited.

4. Alligator meat may be used by the harvester but cannot be bought, sold or bartered except as provided in this regulation. All packages of meat not to be sold must have a tag with the name of the harvester and the harvest tag number attached.

5. Before shipping or transporting outside of the USA, carcasses or hides must have CITES tags attached. Anyone desiring to ship or transport such items from the country must contact select Department offices for CITES validation and tagging.

6. Any alligator carcass, hide or part that is not tagged or marked as required in this regulation is declared contraband and must be confiscated.

#### B. Depredation Program

1. Depredation permits for alligator removal will be issued to property owners or control agents. There is no fee for participation in this program.

2. Qualifications and liability of Control Agents:

a. Control agents must possess the experience and ability to handle alligators.

b. Control agents must supply all equipment necessary to take alligators.

c. Control agents assume personal liability for their health, safety and welfare and that of their assistants.

d. Control agents are not employees of the Department, they are independent contractors.

e. Applications for selection as control agents will be reviewed by the Department. The number of appointed control agents will be based upon the need as determined by the Department.

3. Operation of Department designated alligator control agents:

a. Alligators may be skinned only at designated sites and in accordance with specific instructions provided by the Department.

b. The meat of alligators may be used by the control agents or his/her immediate family and may also be given to others but must not be bought, sold or transferred except as provided in this regulation. All packages of meat not be sold, transferred or bartered must have a tag attached that includes the name of the person who harvested the alligator and the harvest tag number.

c. Each control agent may be assisted by not more than two assistant control agents approved by the Department, provided that no such assistant shall operate or conduct any alligator trapping or transportation activity except under supervision of the control agent.

d. Alligator harvest tags issued to control agents are the property of the Department and shall remain the property of the Department.

e. Designation as an alligator control agent is discretionary with the Department and such designation may be revoked at any time.

#### C. Private Lands Alligator Program

1. Alligators may be taken from lands that are in the Private Lands Alligator Program. The season for taking alligators under this program is from September 1 until October 15. The Department will establish a quota and issue tags for each specific application. Alligators taken under this program must be at least 4 feet in length.

2. Applications for participating in the Private Lands Alligator Program must be received by the Department not later than August 1<sup>st</sup> of that year, and the applicant must report all harvested alligators and harvest information to the Department not later than the following December 1<sup>st</sup>.

3. If the application is approved by the Department for participation in the Private Lands Alligator Program and a permit is issued, alligators may be taken only from that area and only by a licensed hunter. In order to participate in the Private Lands Alligator Program, an alligator control agent as defined in Section B must also be a licensed hunter. Participants in the Private Lands Alligator Program must maintain accurate records for inspection by Department personnel and the records must be made available for immediate inspection at any and all reasonable hours at the request of the Department.

4. All areas identified in the Private Lands Alligator Program and facilities used for processing alligators must be open to Department personnel for inspection to determine compliance with the program and laws and regulations protecting alligators and to allow collection of biological information.

5. During the designated private lands season, alligators may only be taken by firearms, hand-held snares, hand-held harpoons, archery equipment, crossbows, snatch hooks and as otherwise permitted by the Department. If devices other than firearms are used, a line must be securely attached to the hook, arrow or head of the device in such a manner to prevent separation from the hook, arrow or head until the carcass is retrieved. The other end of the line must be held by the hunter or be attached to a stationary or floating object

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capable of maintaining line above water when an alligator is attached. Rimfire firearms and shotguns are prohibited for taking alligators except that these firearms can be used to dispatch an alligator secured by a line. No alligator may be taken by use of baited hooks or by pole hunting. Pole hunting is defined as the act of taking an alligator from a den with a hook or snagging device of any type secured to the end of a pole and includes any device used to induce an alligator to move from a den prior to taking. All alligators taken under this program must be killed prior to transport off of the property named on the permit.

6. No person may use alligator harvest tags issued for privately-owned habitat on publicly-owned property.

7. A Department-supplied alligator harvest report form must be updated by the applicant or the person taking alligators on the property within 24 hours of the taking of each alligator. Alligator hunters, while on property designated under the Private Lands Alligator Program, may only possess tags for that property. Completed harvest forms must be returned to the Department by December 1<sup>st</sup> of each year. A participant who does not report is not eligible to participate in the program the following year.

8. Alligator hides, parts or products may be retained and sold only in accordance with this regulation.

### D. Alligator Hunting Season

1. The Department may issue a prescribed number of Alligator Hunting Season permits for the harvest of alligators. Those applicants randomly selected shall be issued instructions along with harvest tag(s). Alligators may be taken pursuant to permits from public and private areas where the person has legal access for the taking of alligators. Alligators taken under this program must be at least 4 feet in length. The season for hunting alligators under this program is from the 2<sup>nd</sup> Saturday in September until the 2<sup>nd</sup> Saturday in October and is open in Game Zones 3, 4, 5 & 6. These harvest permits cannot be used on property approved under the Private Lands Alligator Program. The Department may close, extend, delay or reopen the season if biological needs warrant.

2. During the designated season, alligators may only be taken by hand-held snares, hand-help harpoons, archery equipment, crossbows, snatch hooks and as otherwise permitted by the Department. Any device may only be used when a line is securely attached to the hook or head of the device in such a manner as to prevent separation from the hook, arrow or head until the carcass is retrieved. The other end of the line must be held by the hunter or attached to a stationary or floating object capable of maintaining line above water when an alligator is attached. Only a handgun, a bangstick or sharp instrument used to sever the spine may be used for dispatch and only if a restraining line is attached to the alligator. A hand-held snare must be used to hold the alligator boatside or on land before it can be dispatched. Firearms may not be used to take free-swimming or basking alligators. The possession of a rifle or shotgun while taking or attempting to take alligators under this program is prohibited. All alligators taken under this program must be killed prior to transport by boat or vehicle. No alligator may be taken by use of baited hooks or by pole hunting. Pole hunting is defined as the act of taking an alligator from a den with a hook or snagging device of any type secured to the end of a pole and includes any devices used to induce an alligator to move from a den prior to taking.

3. A Department-supplied alligator harvest report form must be updated by the person taking alligators within twenty-four (24) hours of taking each alligator and prior to transporting the alligator carcass to a processing facility. A copy of the alligator harvest report must accompany the alligator hide. Completed harvest forms must be returned to the Department by December 1<sup>st</sup> of each year.

4. A person who does not report is not eligible to participate in the program the following year.

5. Alligator meat may be retained by the harvester but cannot be bartered or sold. Alligator hides may be retained and sold only in accordance with this regulation.

### E. Sale of Alligator Meat

1. The sale or barter of alligator meat taken under the alligator hunting season program is prohibited.

2. Meat taken from alligators harvested under the authority of depredation tags and the private lands program tags may be sold only under the following conditions:

a. Each package must be labeled to indicate the state, the number of pounds of meat enclosed, the date of packaging, the name of harvester, the processor, the State Food Inspection Department's inspection number, and the tag number corresponding to the alligator hide from which the meat was taken.

b. All cartons of alligator meat imported from other states shall bear an official marking from that state's wildlife agency.

c. Persons handling alligator meat for human consumption must comply with the sanitation requirements of all applicable federal, state and local authorities.

d. Those who harvest alligators must maintain accurate records of all alligator meat sales on standard forms supplied by the Department and such records shall be open to inspection by Department personnel.

3. No person may bring any alligator meat into this State, or possess alligator meat unless authorized by this regulation.

4. Alligator meat transported into the State must bear evidence of having been legally taken.

5. Restaurants, canneries, nonfood meat processors and alligator meat wholesalers shall retain all alligator meat purchased in the original packages until the meat is prepared for consumption or processing. Such businesses and/or individual shall detach the original label with the accompanying data from each package when all meat from that carton has been prepared or processed and retain that label for the period of at least six months from the date of sale indicated on the label.

#### F. Sale, Barter or Transfer of Alligator Hides and Other Parts

1. Alligator skulls and other parts not discarded must be permanently marked with the alligator harvest tag number under which it was taken. Possession of any part without the tag number is prohibited. Parts that are found may be retained, sold bartered or transferred but the finder must contact the Department to obtain a tag number to permanently tag or mark the part. The parts may be sold, bartered or transferred but records must be kept indicating to whom the parts were sold, bartered or transferred.

2. Hides or alligators taken with Department issued permits may be sold but must be properly tagged and reported as provided in this regulation. Alligator hides and parts transported into this state for sale or processing must bear evidence of having been legally taken.

3. No person shall accept or possess an untagged alligator hide or unmarked or untagged alligator part for any purpose.

#### G. Sale of Finished Alligator Products

1. Products made from crocodilians may be sold in the State in accordance with the following:

a. Products made from the American alligator must be visibly labeled American alligator.

b. Products made from Caiman must be visibly labeled Caiman.

c. Products made from other crocodilians must be visibly labeled Crocodile.

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

Action of the 2008 SC General Assembly and changes to existing laws require that existing regulations be replaced. Because the alligator harvest under two of the programs established in the new law begin in September, it is necessary to file emergency regulations that will take effect immediately.

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

This amendment of Regulation 123-151 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.