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# SOUTH CAROLINA STATE REGISTER

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# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

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

## **2011 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	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

## **REPRODUCING OFFICIAL DOCUMENTS**

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

## **PUBLIC INSPECTION OF DOCUMENTS**

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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: <http://www.scstatehouse.gov/regnsrch.htm>

<b>DOC. NO.</b>	<b>RAT. NO.</b>	<b>FINAL ISSUE</b>	<b>SUBJECT</b>	<b>EXP. DATE</b>	<b>AGENCY</b>
4126			South Carolina Pesticide Control	5/11/11	Clemson University-State Crop Pest Comm.
4141			Seasons, Limits, Methods of Take and Special Use		
			Restrictions on WMA's; Turkey Hunting Rules and Seasons	5/11/11	Department of Natural Resources
4135			Rehabilitation of Designated Historic Buildings	5/11/11	Department of Archives and History
4154			Food and Cosmetics	5/11/11	Department of Agriculture



## 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: <http://www.scstatehouse.gov/regnsrch.htm>

<b>DOC. No.</b>	<b>SUBJECT</b>	<b>HOUSE COMMITTEE</b>	<b>SENATE COMMITTEE</b>
4126	South Carolina Pesticide Control		
4141	Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons		
4135	Rehabilitation of Designated Historic Buildings		
4154	Food and Cosmetics		

**Executive Order No. 2010-15**

**WHEREAS**, on October 28, 2010, the Grand Jurors of Dillon County, South Carolina, issued an indictment against Randolph Stephen Gurley, a member of the Dillon City Council, for attempted murder in violation of S.C. Code Ann § 16-3-29; for criminal domestic violence of a high and aggravated nature in violation of S.C. Code Ann. § 16-25-65; and for distribution of marijuana in violation of S.C. Code Ann. § 44-53-370;

**WHEREAS**, South Carolina law recognizes that attempted murder and domestic violence are crimes involving moral turpitude, *see Whitehead v. State*, 308 S.C. 119 (1992) (noting that solicitation to commit murder is a crime of moral turpitude); *In re Laquiere*, 366 S.C. 559 (2005) (acknowledging that domestic violence is a crime involving moral turpitude) ; and

**WHEREAS**, Randolph Stephen Gurley is an officer of a political subdivision of the State and Article VI, Section 8, of the South Carolina Constitution provides that "[a]ny officer of the State or its political subdivisions...who has been indicted by a grand jury for a crime involving moral turpitude...may be suspended by the Governor until he shall have been acquitted;" and

**WHEREAS**, a certified true copy of the indictment against Randolph Stephen Gurley has been provided to me.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby suspend Randolph Stephen Gurley from the office of Council Member of the City of Dillon until such time as he shall be formally acquitted or convicted.

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

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 5th DAY OF NOVEMBER 2010.**

**MARK SANFORD**  
Governor

**Executive Order No. 2010-16**

**WHEREAS**, on May 25, 2010, the Grand Jurors of Anderson County, South Carolina, issued indictments for six charges of failure to collect or pay taxes withheld from employees in violation of S.C. Code Ann. § 12-54-44(B)(2) against Cathy M. Phillips, the Clerk of Court of Anderson County;

**WHEREAS**, South Carolina law recognizes that employee withholding taxes do not belong to the employer and that "failure to remit such taxes is akin to larceny which has been declared to involve moral turpitude," *Lyons v. Butler*, 288 S.C. 498, 502 (Ct.App. 1986);

#### **4 EXECUTIVE ORDERS**

**WHEREAS**, Cathy M. Phillips is an officer of a political subdivision of the State and Article VI, Section 8, of the South Carolina Constitution provides that "[a]ny officer of the State or its political subdivisions...who has been indicted by a grand jury for a crime involving moral turpitude...may be suspended by the Governor until he shall have been acquitted;"

**WHEREAS**, on June 2, 2010, I suspended Cathy M. Philips from the office of Clerk of Court of Anderson County until such time as she shall be formally acquitted or convicted;

**WHEREAS**, on November 9, 2010, Cathy M. Phillips pled guilty to six counts of failure to collect or pay taxes withheld from employees in violation of S.C. Code Ann. § 12-54-44(B)(3);

**WHEREAS**, Article VI, Section 8, of the South Carolina Constitution provides that in the case of a conviction of an officer of the State or its political subdivisions for a crime involving moral turpitude that the office shall be declared vacant and such vacancy shall be filled as provided by law; and

**WHEREAS**, S.C. Code Ann. § 14-17-30 provides that the Governor shall fill a vacancy in a county clerk of court office by appointment and that until such appointment is made that the probate judge of the county shall take charge of the clerk of court's office;

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby remove Cathy M. Phillips from the office of Clerk of Court of Anderson County and declare the office vacant until such time that I make an appointment pursuant to S.C. Code Ann. §§ 4-11-20 and 14-17-30.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 10th DAY OF NOVEMBER 2010.**

**MARK SANFORD**  
Governor

#### **Executive Order No. 2010-17**

**WHEREAS**, Chris Murphy has resigned as a member of the Dorchester County Council, District 2, as a result of being elected to the South Carolina House of Representatives;

**WHEREAS**, the undersigned is authorized to appoint members of a county council in the event of a vacancy pursuant to Sections 1-3-220(2) and 4-9-90 of the South Carolina Code of Laws, as amended;

**WHEREAS**, on November 2, 2010, David Chinnis won the general election to fill the Dorchester County Council, District 2, seat being vacated by Chris Murphy; and

**WHEREAS**, David Chinnis, a resident of Dorchester County, South Carolina, is a fit and proper person to serve as a member of the Dorchester County Council, District 2.

**NOW, THEREFORE**, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint David Chinnis as a member of the Dorchester County Council, District 2, effective immediately, and shall remain effective until he qualifies and takes office for the term in which he was elected.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 19th DAY OF NOVEMBER 2010.**

**MARK SANFORD**  
Governor

**Executive Order No. 2010-18**

**WHEREAS**, the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, and liquid petroleum gas (LPG) to residential and commercial establishments is an essential need of the public during the wintertime and any interruption threatens the public welfare; and

**WHEREAS**, the continued period of cold weather has increased the demand for the above-referenced fuels and threatened the uninterrupted delivery of those fuels to residential and commercial customers; and

**WHEREAS**, the Federal Motor Carrier Safety regulations, 49 CFR § 390, et seq., limit the hours operators of commercial motor vehicles may drive; and

**WHEREAS**, 49 CFR § 390.23 allows the Governor of a State to suspend these rules and regulations for up to 30 days if the Governor determines that an emergency condition exists; and

**WHEREAS**, S.C. Code Ann. § 56-5-70 requires that the Governor of South Carolina to declare an emergency for the purposes of suspending regulations pursuant to 49 CFR § 390.23 whenever a similar emergency is declared in North Carolina or Georgia; and

**WHEREAS**, on December 13, 2010, a state of emergency was declared in Georgia for purpose of suspending rules and regulations that limit the hours operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of liquid petroleum gas throughout Georgia.

**NOW, THEREFORE**, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina and of the United States of America, I hereby declare a State of Emergency for the limited purpose of suspending the federal rules and regulations that limit the hours operators of commercial vehicles may drive, in order to ensure the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, and LPG throughout South Carolina. This emergency justifies a suspension of Part 395 (drivers' hours of service) of Title 49 of the Code of Federal Regulations. The suspension shall remain in effect for 30 days or until the emergency condition ceases to exist, whichever is less.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 CFR § 383, the financial requirements in 49 CFR § 387, or applicable federal size and weight limitations.

## **6 EXECUTIVE ORDERS**

**BE IT FURTHER ORDERED** that this Order does not suspend the operation of any state or federal laws or regulations within the State of South Carolina except as specifically described in the Order. All other laws and regulations remain in full force and will be enforced.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 14TH DAY OF DECEMBER 2010.**

**MARK SANFORD  
Governor**

## STATE BUDGET AND CONTROL BOARD

## NOTICE

This notice is published pursuant to Sections 1-23-40(2) and 1-34-30(B).

Section 10-1-180 charges the State Engineer with the enforcement and interpretation of building codes applicable to state buildings. Section 1-34-30 requires that an agency adopt the latest edition of all nationally recognized codes which the agency is charged by statute with enforcing and allows the agency to propose such adoption by publishing a notice in the State Register.

Pursuant to Section 1-34-30(A), the State Engineer published in the August 2010 issue of the State Register, notice of proposed adoption of the below listed codes. Having received no comments within 60 days of publication, the below listed codes are promulgated without amendment, effective January 1, 2011. Consistent with Section 10-1-180, information regarding the adoption of these codes, including the code editions, revision years, and any deletions, will be published in the Manual for Planning and Execution of State Permanent Improvements.

International Building Code (IBC), 2009 Edition  
 International Existing Building Code (IEBC), 2009 Edition  
 International Fire Code (IFC), 2009 Edition  
 International Fuel Gas Code (IFGC), 2009 Edition  
 International Mechanical Code (IMC), 2009 Edition  
 International Plumbing Code (IPC), 2009 Edition  
 International Private Sewage Disposal Code (IPSDC), 2009 Edition  
 International Property Maintenance Code (IPMC), 2009 Edition,  
 International Residential Code for One and Two Family Dwellings (IRC), 2009 Edition  
 International Wildland – Urban Interface Code (Iuwic), 2009 Edition  
 International Code Council Performance Code (ICCPC), 2009 Edition

The following organization issued the above listed nationally recognized codes:

International Code Council Inc.  
 500 New Jersey Avenue, NW, 6<sup>th</sup> Floor  
 Washington, DC 2001-2070

National Electrical Code (NEC) [NFPA-70], 2008 Edition

The following organization issued the above listed nationally recognized code:

National Fire Protection Association  
 1 Battery March Park  
 Quincy, MA 02269

National Electrical Safety Code, ANSI/IEEE-C2-2007 Edition

The following organization issued the above listed nationally recognized code:

IEEE  
 3 Park Avenue, 17<sup>th</sup> Floor  
 New York, NY 10016-5997

## 8 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication December 24, 2010, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

#### Affecting Beaufort County

Establishment of a home health agency restricted to serve Beaufort County  
SJC Home Health Services - Lowcountry  
(St. Joseph's/Candler Home Health Services - Lowcountry)  
Bluffton, South Carolina  
Project Cost: \$73,106

#### Affecting Charleston County

Establishment of a freestanding Ambulatory Surgery Facility (ASF) with two (2) endoscopy rooms restricted to endoscopy procedures only  
The Colorectal EndoSurgery Institute of the Carolinas, LLC  
Mount Pleasant, South Carolina  
Project Cost: \$2,724,710

#### Affecting Horry County

Renovation for the addition of a Positron Emission Tomography/Computed Tomography (PET/CT) unit to be located at 8121 Rourk Street, Myrtle Beach, SC 29572  
Associated Medical Specialists, P.A.  
Myrtle Beach, South Carolina  
Project Cost: \$1,549,850

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from December 24, 2010. "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. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

#### Affecting Charleston County

Purchase and installation of a fixed Positron Emission Tomography/Computed Tomography (PET/CT) scanner to be located in the Trident Medical Arts Building  
Trident Medical Center  
Charleston, South Carolina  
Project Cost: \$2,187,659

Affecting Newberry County

Construction of a new Emergency Department to adjoin the existing hospital structure; the existing Emergency Department will not be operational upon completion of the new Emergency Department  
Newberry County Memorial Hospital  
Newberry, South Carolina  
Project Cost: \$6,879,182

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE

#### NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

State Register Document No. 4161

Proposed Amendment of R.61-68, Water Classifications and Standards

The Department of Health and Environmental Control published a Notice of Proposed Regulation and Opportunity for Public Comment in the State Register on November 26, 2010, identified as Document No. 4161, to revise R.61-68, Water Classifications and Standards. Document No. 4161 proposed amendments to revise the State's water quality standards pursuant to requirements of Section 303(c)(2)(B) of the Federal Clean Water Act. The aforementioned Notice scheduled a Staff Informational Forum that was conducted on December 6, 2010, a write-in public comment period that closes on December 29, 2010, and a Public Hearing to be held before the DHEC Board on January 13, 2011. This Public Hearing has been cancelled and rescheduled for February 10, 2011 in the DHEC Board Room of the Commissioner's Suite, Third Floor, Aycock Building, 2600 Bull Street, Columbia, S.C. Please use the Bull Street entrance to the building if you plan to attend.

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 hearing will be noticed in the Board's agenda to be published by the Department 24 hours in advance of the meeting at <http://www.scdhec.gov/administration/board.htm>. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulation.

Copies of the proposed regulation for public notice and comment may be obtained by contacting Gina Kirkland at the South Carolina Department of Health and Environmental Control, Bureau of Water, 2600 Bull Street, Columbia, S.C. 29201. Electronic copies may be obtained from the Department's Regulatory information website at <http://www.scdhec.gov/regulatory.htm>. or from the Bureau of Water webpage at [http://www.scdhec.gov/environment/water/wq\\_standard.htm](http://www.scdhec.gov/environment/water/wq_standard.htm).



## 10 DRAFTING NOTICES

### PUBLIC SERVICE COMMISSION

#### CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140

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

The Public Service Commission of South Carolina proposes to add a new regulation regarding information to be filed with financing applications. Interested persons may submit comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2010-402-E. To be considered, comments must be received no later than 4:45 p.m. on February 4, 2011.

#### **Synopsis:**

Commission Order No. 1991-72 was issued on January 18, 1991, and this Order addressed certain information to be filed with the Commission with financing applications. For example, Order No. 1991-72 requires all electric utilities filing financing applications to identify the effect on the income statement and balance sheet of the proposed financing. Also, Order No. 1991-72 requires the application to include specific information regarding how the funds obtained through the proposed financing are to be used by the Company. According to language of Order No. 1991-72, the applicant should include the information outlined on the second page of Order No. 1991-72 to expedite the evaluation of such applications.

Legislative review of this proposal will be required.

Document No. 4172  
STATE BOARD OF EDUCATION  
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-13-50 and 59-13-100

43-169. Food Service Management Company Contracts

**Preamble:**

As part of an ongoing effort to implement uniform business practices wherever possible, the Division of Innovation and Support and the Office of Health and Nutrition are proposing this new regulation to codify an existing operating procedure and further streamline the process by which food service management company contracts are developed, executed, and monitored.

The Notice of Drafting was published in the *State Register* on July 23, 2010.

Section-by-Section Discussion

Section I. PURPOSE. This section confirms the responsibility of the South Carolina Department of Education to oversee the contractual process for the utilization of food service management companies.

Section II. DEFINITIONS. This section defines terminology used by the United States Department of Agriculture relative to the operation of child nutrition programs and related food service management company contracts.

Section III. IMPLEMENTATION. This section delineates responsibilities of all affected parties relative to the impact of this proposed regulation on food service management company contracts.

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the State Board of Education at its meeting on Thursday, February 10, 2011, at 1:00 p.m. at the Rutledge Building, South Carolina Department of Education, Columbia, South Carolina. 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.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Todd Bedenbaugh, Director, Office of Health and Nutrition, 3710 Landmark Drive, Suite 301, Columbia, South Carolina 29204 or e-mail at [tabedenb@ed.sc.gov](mailto:tabedenb@ed.sc.gov). Comments submitted by January 24, 2011, at 5:00 p.m., shall be submitted to the Board in a summary of public comments and Department responses for consideration at the public hearing.

**Preliminary Fiscal Impact Statement:**

There will be no increased costs to the state, its political subdivisions, other non-profit educational entities that participate in the National School Lunch, Breakfast, or After-School Snack Programs, and/or food service management companies.

## **12 PROPOSED REGULATIONS**

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

DESCRIPTION OF REGULATION: R.43-169, Food Service Management Company Contracts.

Purpose: The proposed regulation shall require that a contract template document and uniform timeframe be used when a food service management company is engaged for the provision of school meals, snacks, and related services.

Legal Authority: S.C. Code Ann. Sections 59-13-50 and 59-13-100, 7 CFR Part 210 et seq., and 7 CFR Part 220.

Plan for Implementation: The proposed regulation will be posted on the South Carolina Department of Education's Web site for review and comment. The regulation will take effect upon approval by the General Assembly and publication in the State Register.

Note: The proposed regulation is an extension and clarification of federal regulations and thus may not need state legislative approval.

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

The proposed regulation provides additional uniformity and a streamlined approach to a complicated contractual business process that is required by federal regulations. However, those regulations do not provide adequate specificity as to all relevant terms and conditions that must be included in contract documents.

### **DETERMINATION OF COSTS AND BENEFITS:**

None.

### **UNCERTAINTIES OF ESTIMATES:**

None.

### **EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

This regulation does not have any effect on the environment or public health.

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

There will be no detrimental effect on the environment or public health if this regulation is not implemented.

### **Statement of Rationale:**

The United States Department of Agriculture (USDA) authorizes the South Carolina Department of Education (SCDE) to administer child nutrition programs for all eligible school food authorities (SFA) to include school districts, private, parochial, and charter schools, as well as residential child care facilities in South Carolina. A SFA may contract with a private food service management company to manage its food service operation involving these programs.

The Office of Health and Nutrition has developed a template in collaboration with several Southeastern states for SFAs to use when contracting food service operations with food service management companies. The template has been approved by the USDA and is seen as a model which other states have requested and copied.

The template contains all the required federal and state procurement standards pertaining to contracting food service operations. As provided in 7 CFR 210.19(e), the state agency may impose additional requirements which meet or exceed the required federal standards.

This regulation would require all school food authorities when contracting their food service operations to use the statewide template. This action will help standardize and simplify the complex and detailed process for SFAs. It also curtails any attempt by food service management companies to include their own terms and conditions which could potentially jeopardize the legitimacy of the process.

The USDA currently requires all food service management contracts to be written for a one-year period but they can be extended up to four additional one-year periods. The fiscal year for all school districts and state agencies is July 1 through June 30. This regulation would also require all food service management contracts to commence on July 1 through June 30. This action will also allow for continuity of all associated financial matters, including but not limited to employee pay and benefits, as well as the disposition of USDA commodities. In addition, the consumer price index from the United States Department of Labor is calculated in conjunction with this period. The consumer price index is the tool used to substantiate any request for increases by the food service management companies.

**Text:**

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

Document No. 4169  
**DEPARTMENT OF EMPLOYMENT AND WORKFORCE**  
CHAPTER 47  
Statutory Authority: 1976 Code Section 41-29-130

- 47-1. Cash Value of Certain Remunerations
- 47-3. Definitions

**Preamble:**

The South Carolina Department of Employment and Workforce proposes to amend regulation 47-1 in Article 1 to bring it into compliance with current agency policy and legislative changes made in the General Assembly during the 2010 session. Additionally, it seeks to add definitions associated with the legislative reforms in 47-3. The Notice of Drafting regarding these regulations was published on November 26, 2010 in the *State Register*.

Section-by-Section Discussion

47-1. Cash Value of Certain Remunerations. This regulation is being revised to expand and refine the definition of certain non-cash remunerations.

47-3. Definitions. This regulation is being added to define a number of terms associated with “compelling family circumstances” as used in Section 41-35-125 of the South Carolina Code of Laws.

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

Interested persons may submit written comments to Erica M. Von Nessen, Special Assistant to the Executive Director, South Carolina Department of Employment and Workforce, 1550 Gadsden St., Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m., January 28, 2011. The Department of Employment and Workforce has scheduled a public hearing on January 28, 2011 at 9:00 a.m. in the Foster Auditorium at the Department of Employment and Workforce, 631 Hampton St., Columbia, South Carolina 29202.

### 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:

SC Code of Regulations 47-1. Cash Value of Certain Remunerations

SC Code of Regulations 47-3. Definitions

Purpose: The purpose of amending Regulation 47-1 and adding Regulation 47-3 is to bring them into conformity with legislative changes made by the General Assembly during the 2010 legislative session. These regulations clarify the methods the agency uses to value non-cash payments to workers and expands the definition of certain terms used regarding voluntary quits for compelling family reasons.

Legal Authority: S.C. Code Ann. Section 41-29-130.

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

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

The amendment of these regulations brings them into conformity with reform legislation passed by the SC General Assembly during the 2010 legislative session. The addition of certain definitions clarifies the meaning of these terms as they are used in statute and policies.

#### DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Department's regulations are minimal, the benefits include creating regulations that provide uniform standards; removing out of compliance information; and providing guidance for the execution of the Department's regulations.

#### 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 amending and proposing Regulations 47-1 and 47-3 is to create uniformity and delete ambiguity in the Department's regulations. The proposed regulations bring the Department's regulations into conformity with legislative changes passed in the 2010 session. 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.gov/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 4170

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE**  
**CHAPTER 47**

Statutory Authority: 1976 Code Sections 41-29-130 and 41-31-310

- 47-4. Employer Legal Entity Classification
- 47-5. Delinquent Reports
- 47-6. Benefit Ratio
- 47-7. Interest Surcharge
- 47-8. Employer-Employee Relationship
- 47-15. Reports and Instructions Relative to Report Form
- 47-16. Contributions: Interest
- 47-17. Information to Be Furnished with Respect to Changes in Ownership, Notification of Acquisitions, and Methods for the Transfer of Experience Rating Reserve Accounts
- 47-19. Separation Notices
- 47-23. Offers of Work
- 47-28. Military Services
- 47-36. Review of Rulings with Respect to the Status, Liability, and Rate of Contributions of an Employer or Employing Unit
- 47-39. Joint Account
- 47-41. Bonding Requirements for Certain Nonprofit Organizations
- 47-46. "National Indicator" for Extended Benefits
- 47-47. "State Indicator" for Extended Benefits

**Preamble:**

The South Carolina Department of Employment and Workforce proposes to amend several regulations in Article 2 to bring them into compliance with legislative changes made in the General Assembly during the 2010 session. Additionally, it seeks to add definitions associated with the legislative reforms. Finally, the Department seeks to repeal regulations defining state and national indicators for extended benefits. The Notice of Drafting regarding these regulations was published on November 26, 2010 in the *State Register*.

Section-by-Section Discussion

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47-4. Employer Legal Entity Classification. This regulation is being added to define the proper legal entity classification of employer for unemployment tax purposes.

47-5. Delinquent Reports. This regulation is being added to define delinquent wage and contribution reports for the purposes of Section 41-31-60.

47-6. Benefit Ratio for Zero Taxable Wages. This regulation is being added to clarify the tax class assignment for employers who have zero in the denominator for their benefit ratio calculation as defined in Section 41-31-5.

47-7. Interest Surcharge. This regulation is being added to clarify which employers are subject to the interest surcharge defined in Section 41-31-55.

47-8. Employer-Employee Relationship. This regulation is being added to clarify the Department's ability to determine the existence of an employer-employee relationship.

47-15. Reports and Instructions Relative to Report Form. This regulation is being amended to allow forms to be returned to authorized representative of the Department as well as reduce the number of days employers have to file their quarterly wage and contribution reports to ease the burden of collecting wage information on claimants using an alternate base period to meet monetary eligibility for unemployment benefits.

47-16. Contributions: Interest. This regulation is being amended to reduce the number of days employers have to file their quarterly wage and contribution reports to ease the burden of collecting wage information on claimants using an alternate base period to meet monetary eligibility for unemployment benefits.

47-17. Information to Be Furnished with Respect to Changes in Ownership, Notification of Acquisitions, and Methods for the Transfer of Experience Rating Reserve Accounts. This regulation is being amended to reflect legislative changes to the way the Department experience rates employers for the purposes of assigning a tax rate for unemployment insurance.

47-19. Separation Notices. This regulation is being amended to bring the number of days employers have to return their notice of separation into compliance with applicable state law.

47-23. Offers of Work. This regulation is being amended to remove the specified number of days employers have to return information to the Department concerning offers of work.

47-28. Military Services. This regulation is being amended to add the definition of an alternate base period as provided for in legislative reforms during the 2010 legislative session.

47-36. Review of Rulings with Respect to the Status, Liability, and Rate of Contributions of an Employer or Employing Unit. This regulation is being amended to bring it into conformity with current laws and agency practices.

47-39. Joint Account. This regulation is being amended to reflect legislative changes to the way the Department experience rates employers for the purposes of assigning a combined tax rate for unemployment insurance.

47-41. Bonding Requirements for Certain Nonprofit Organizations. This regulation is being amended to reflect the change to bonding requirements for certain employers due to legislative changes to the way the Department calculates unemployment tax rates.

47-46. "National Indicator" for Extended Benefits. This regulation is being repealed as definitions for Extended Benefits are clearly defined in both state and federal statutes.

47-47. "State Indicator" for Extended Benefits. This regulation is being repealed as definitions for Extended Benefits are clearly defined in both state and federal statutes.

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

Interested persons may submit written comments to Erica M. Von Nessen, Special Assistant to the Executive Director, South Carolina Department of Employment and Workforce, 1550 Gadsden St., Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m., January 28, 2011. The Department of Employment and Workforce has scheduled a public hearing on January 28, 2011 at 9:00 a.m. in the Foster Auditorium at the Department of Employment and Workforce, 631 Hampton St., Columbia, South Carolina 29202.

**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:**

SC Code of Regulations 47-4. Employer Classification  
SC Code of Regulations 47-5. Delinquent Reports  
SC Code of Regulations 47-6. Benefit Ratio for Zero Taxable Wages  
SC Code of Regulations 47-7. Interest Surcharge  
SC Code of Regulations 47-8. Employer-Employee Relationship  
SC Code of Regulations 47-15. Reports and Instructions Relative to Report Form  
SC Code of Regulations 47-16. Contributions: Interest  
SC Code of Regulations 47-17. Information to Be Furnished with Respect to Changes in Ownership, Notification of Acquisitions, and Methods for the Transfer of Experience Rating Reserve Accounts  
SC Code of Regulations 47-19. Separation Notice  
SC Code of Regulations 47-21. Filing Claims for Benefits and Registration for Work  
SC Code of Regulations 47-23. Offers of Work  
SC Code of Regulations 47-28. Military Service  
SC Code of Regulations 47-36. Review of Rulings with Respect to the Status, Liability, and Rate of Contributions of an Employer or Employing Unit  
SC Code of Regulations 47-39. Joint Account  
SC Code of Regulations 47-41. Bonding Requirements for Certain Nonprofit Organizations  
SC Code of Regulations 47-46. "National Indicator" for Extended Benefits  
SC Code of Regulations 47-47. "State Indicator" for Extended Benefits

Purpose: The purpose of amending Regulations 47-15, 47-16, 47-17, 47-19, 47-23, 47-28, 47-36, 47-39, and 47-41 and adding Regulations 47-4 through 47-8 is to bring them into conformity with legislative changes made by the General Assembly during the 2010 legislative session. These regulations clarify the method the agency uses to experience rate employers for the purpose of assigning a tax rate for unemployment insurance. These regulations clarify the employers who are subject to the interest surcharge. These regulations clarify the Department's authority to classify employers and an employer-employee relationship. These regulations define the time allowed to file wage and contribution reports to avoid delinquency. The term "delinquent" is used in the Department's regulations; however, it is not currently defined in the regulations. Thus, the proposed regulation will provide employers and the public with a definition of this term. Finally, the Department proposes to repeal Regulations 47-46 and 47-47 as these terms are adequately defined in state statute and are currently out of date.



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Legal Authority: S.C. Code Ann. Section 41-29-130.

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

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

The amendment of these regulations brings them into conformity with reform legislation passed by the SC General Assembly during the 2010 legislative session. The addition of terms delinquent, benefit ratio, and interest surcharge clarifies the meaning of these terms as they are used in statute and policies.

### DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Department's regulations are minimal, the benefits include creating regulations that provide uniform standards; removing out of compliance information; and providing guidance for the execution of the Department's regulations.

### 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 proposing Regulations 47-4 through 47-8, 47-15, 47-16, 47-17, 47-19, 47-23, 47-28, 47-36, 47-39, and 47-41 is to create uniformity and delete ambiguity in the Department's regulations. The proposed regulations bring the Department's regulations into conformity with legislative changes passed in the 2010 session. 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.gov/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 4171

**DEPARTMENT OF EMPLOYMENT AND WORKFORCE**

**CHAPTER 47**

Statutory Authority: 1976 Code Sections 41-27-510, 41-29-130, 41-29-270, and 41-31-310

- 47-51. Appeals to the Appeal Tribunal
- 47-52. Appeals to the Appellate Panel
- 47-53. Issuance of Subpoenas
- 47-54. Orders for Supplying Information from the Records of the Agency
- 47-55. Representation before Appeal Tribunal and the Appellate Panel
- 47-56. Inspection of the Decisions of the Appeal Tribunals and the Appellate Panel
- 47-57. Appeal to the Courts

**Preamble:**

The South Carolina Department of Employment and Workforce proposes to amend regulations 47-51 through 47-57 in Article 3 to bring them into compliance with current agency policy and legislative changes made in the General Assembly during the 2010 session. The Notice of Drafting regarding these regulations was published on November 26, 2010 in the *State Register*.

Section-by-Section Discussion

47-51. Appeals to Appeal Tribunal. This regulation is being amended to reflect a change in the upper level appellate body as well as to bring it into conformity with current agency practices.

47-52. Appeals to the Appellate Panel. This regulation is being amended to reflect the change in the upper level appellate body.

47-53. Issuance of Subpoenas. This regulation is being amended to reflect the change in the upper level appellate body.

47-54. Orders for Supplying Information from the Records of the Agency. This regulation is being amended to reflect the agency's name change.

47-55. Representation before Appeal Tribunal and the Appellate Panel. This regulation is being amended to reflect the change in the upper level appellate body as well as a change in the agency's name.

47-56. Inspection of the Decisions of the Appeal Tribunals and the Appellate Panel. This regulation is being amended to reflect the change in the upper level appellate body as well as a change in the agency's name.

47-57. Appeal to the Courts. This regulation is being amended to bring it into conformity with changes made during the 2010 legislative session.

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

Interested persons may submit written comments to Erica M. Von Nessen, Special Assistant to the Executive Director, South Carolina Department of Employment and Workforce, 1550 Gadsden St., Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m., January 28, 2011. The Department of Employment and Workforce has scheduled a public hearing on January 28, 2011 at 9:00 a.m. in the Foster Auditorium at the Department of Employment and Workforce, 631 Hampton St., Columbia, South Carolina 29202.

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### **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:**

SC Code of Regulations 47-51. Appeals to the Appeal Tribunal

SC Code of Regulations 47-52. Appeals to the Appellate Panel

SC Code of Regulations 47-53. Issuance of Subpoenas

SC Code of Regulations 47-54. Orders for Supplying Information from the Records of the Agency

SC Code of Regulations 47-55. Representation before Appeal Tribunal and the Appellate Panel

SC Code of Regulations 47-56. Inspection of the Decisions of the Appeal Tribunals and the Appellate Panel

SC Code of Regulations 47-57. Appeal to the Courts

Purpose: The purpose of amending Regulations 47-51 through 47-57 is to bring them into conformity with legislative changes made by the General Assembly during the 2010 legislative session. These regulations update information relating to the upper level appellate body as well as the change in the court appeal process.

Legal Authority: S.C. Code Ann. Section 41-29-130.

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

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

The amendment of these regulations brings them into conformity with reform legislation passed by the SC General Assembly during the 2010 legislative session.

#### **DETERMINATION OF COSTS AND BENEFITS:**

Although costs related to the proposed changes to the Department's regulations are minimal, the benefits include creating regulations that provide uniform standards; removing out of compliance information; and providing guidance for the execution of the Department's regulations.

#### **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 amending and proposing Regulations 47-51 through 47-57 is to create uniformity and delete ambiguity in the Department's regulations. The proposed regulations bring the Department's regulations into conformity with legislative changes passed in the 2010 session. 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.gov/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 4176  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: 1976 Code Sections 44-5-10 et seq.

**61-6. Capital Expenditure Reviews Under Section 1122, Social Security Act**

**Preamble:**

The Department is proposing repeal of Regulation 61-6, Capital Expenditure Reviews Under Section 1122, Social Security Act. This regulation has been subsumed by the State Certification of Need and Health Facility Licensure Act, Section 44-7-110 et seq., S.C. Code of Laws, 1976, as amended; Regulation 61-15, Certification of Need for Health Facilities and Services, and the South Carolina Health Plan. It is obsolete and no longer serves its intended purpose. In the interest of good government and efficiency, this regulation is being repealed. See Statements of Need and Reasonableness and Rationale herein.

A Notice of Drafting for the proposed repeal was published in the *State Register* on September 24, 2010.

**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 repeal of Regulation 61-6 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on March 10, 2011. 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. The Board meeting commences at 10:00 a.m. at which time the Board will consider items in the order presented on its agenda. The agenda is 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 and, as a courtesy, are asked to provide written comments of their presentations for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed repeal of Regulation 61-6 by writing to Beverly Brandt at the Bureau of Health Facilities and Services Development, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; Fax (803)545-4579. To be considered, written comments must be received no later than 5:00 p.m. on January 26, 2011, the close of the public comment period. Written comments received by the deadline date shall be considered by staff and submitted in a Summary of Public Comments and Department Responses to the Department's Board for public hearing on March 10, 2011, as noticed above.

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Copies of the regulation for repeal may be obtained by contacting Ms. Brandt at the above address. A copy may also be obtained on the Department's Regulatory Information homepage at <http://www.scdhec.gov/regulatory.htm> in the DHEC Regulation Development Update. Click on the Update, choose the category for Certification of Need for Health Facilities and Services, and scan down for this proposed repeal.

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

The Department estimates there will be no costs to the state or its political subdivisions by the repeal of this regulation.

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

This statement was determined by staff analysis pursuant to Sections 1-23-115(C)(1)-(3) and (9)-(11), S.C. Code of Laws, 1976, as amended:

**DESCRIPTION OF REGULATION:** Regulation 61-6, Capital Expenditure Reviews Under Section 1122, Social Security Act.

**Purpose:** Repeal of Regulation 61-6, Capital Expenditure Reviews Under Section 1122, Social Security Act".

**Legal Authority:** Section 44-5-10 et seq., S.C. Code of Laws, 1976, as amended.

**Plan for Implementation:** Notice of this repeal will appear as a final regulation in the State Register and in the Code of Regulations upon approval by the Board of Health and Environmental Control and the South Carolina General Assembly. The Department will also provide notice of this repeal on its Regulatory Information website.

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

Regulation 61-6 has been subsumed by the State Certification of Need and Health Facility Licensure Act, Section 44-7-110 et seq.; S.C. Code of Laws, 1976, as amended; Regulation 61-6, Certification of Need for Health Facilities and Services, and the South Carolina Health Plan. The federal government no longer reimburses the Department for its review of health facility applications. Regulation 61-6 is obsolete, no longer serves its initial purpose and should be repealed. In the interest of effective government, the Department proposes repeal of Regulation 61-6.

### **DETERMINATION OF COSTS AND BENEFITS:**

**Cost:** There will be no fiscal or economic impact on the State or its political subdivisions and the regulated community by the repeal of Regulation 61-6.

**Benefit:** Repeal of this regulation will clarify to the public and regulated community that this regulation is obsolete and is no longer enforced.

### **UNCERTAINTIES OF ESTIMATES:**

The repeal of Regulation 61-6 will not create a burden for the public, the State or its political subdivisions.

### **EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

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

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

There will be no detrimental effect on the environment and public health by the repeal of Regulation 61-6.

**Statement of Rationale:**

The Department is required by statute to review its regulations periodically. Upon review of the status of this regulation, it was determined that Regulation 61-6 should be repealed. See Statement of Need and Reasonableness above.

**Text:**

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

Document No. 4175

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

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-99. Hazardous Waste Management Planning

**Preamble:**

R.61-99 was promulgated and published as a final regulation in the State Register on January 26, 1990, Vol. 14, Issue No. 2. It requires a “demonstration of need” before any applicant can receive a permit to establish or expand a hazardous waste management facility. This need can be demonstrated only by reference to the volume of in-state wastes.

On April 13, 1995, the United States District Court ruled: South Carolina Department of Health and Environmental Control Regulation 61-99 (III) (C) is declared invalid and is permanently enjoined. Environmental Technology Council v State of SC, 901 F. Supp. 1026 (D.S.C., 1995). The Court held that Regulation 61-99 (III) (C) discriminated against interstate commerce in violation of the Commerce Clause. The District Court ruling was upheld on appeal. This court ruling made this regulation null and void. The regulation has remained in the Code of Regulations of the S.C. Code of Laws. It is obsolete and cannot be enforced. In the interest of good government and efficiency, the Department is proposing to repeal Regulation 61-99.

A Notice of Drafting for repeal of R.61-99 was published in the State Register on June 25, 2010; notice was also published in the Department’s Regulation Development Update on the Regulatory Information website at <http://www.scdhec.gov/regulatory.htm>.

**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 repeal of R.61-99 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on March 10, 2011. 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. The Board meeting commences at 10:00 a.m. at

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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.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation during a public comment period by writing to Richard Haynes, Director, Division of Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on January 25, 2011, the close of the public comment period. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing before the Board as noticed above.

Copies of the text of the proposed regulation for repeal may be obtained from the Department's Regulation Development Update published on the Department's website at <http://www.scdhec.gov/regulatory.htm>; click the Land and Waste category and scan down for this proposed regulation. A copy may also be obtained from the Department's Land and Waste website at: <http://www.scdhec.gov/lwm/html/public.html>, or by calling Carolyn McLaughlin at (803) 896-4254.

Public comments received 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 above.

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

There will be no costs to the state or its political subdivisions associated with this repeal.

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

This Statement of Need and Reasonableness complies with Sections 1-23-115(c)(1)-(3) and (9)-(11), S.C. Code of Laws, 1976, as amended.

DESCRIPTION OF REGULATION: Repeal of R.61-99, Hazardous Waste Management Planning.

Purpose: Repeal of 61-99, Hazardous Waste Management Planning.

Legal Authority: Section 44-56-10 et seq., S.C. Code of Laws, 1976, as amended.

Plan for Implementation: Upon final approval by the Board of Health and Environmental Control, the South Carolina General Assembly, and publication in the State Register as final, this regulation will be repealed.

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

This regulation was promulgated and published as a final regulation in the State Register Vol. 14, Issue No. 2 on January 26, 1990. When this regulation was enacted, each state was obligated to certify that it would have waste disposal capacity sufficient for the next twenty years. Sites suitable for proper disposal of hazardous waste were limited and to insure the availability of hazardous waste management facilities to the industries of South Carolina applicants for permits to establish or expand hazardous waste management facilities would demonstrate to the Department the need for such new or expanded facilities.

On April 13, 1995, the United States District Court ruled that South Carolina Department of Health and Environmental Control Regulation 61-99 (III) (C) is declared invalid and is permanently enjoined. Environmental Technology Council v State of SC, 901 F. Supp. 1026 (D.S.C., 1995).

The Court held Regulation 61-99 (III) (C) discriminated against interstate commerce in violation of the Commerce Clause. The District Court ruling was upheld on appeal. States may not engage in economic protectionism, and RCRA contains no clear statement or indication of legislative intent to permit states to override the U.S. Constitution. The federal court ruling which was upheld on appeal declared S.C. R.61-99 null and void. The regulation has remained in the Code of Regulations but cannot be enforced. In the interest of effective government the Department proposes repeal of Regulation 61-99.

**DETERMINATION OF COSTS AND BENEFITS:**

The repeal of R.61-99 will have no substantial fiscal or economic impact on the State and its political subdivisions or the regulated community.

**UNCERTAINTIES OF ESTIMATES:**

No known uncertainties.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

There will be no environmental or public health effect.

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

There will not be a detrimental effect on the environment and public health. However, repeal of this regulation is necessary to clarify that it is no longer valid and enforceable, and will eliminate confusion for the regulated community.

**Statement of Rationale:**

Upon review of Department regulations and the status of this regulation, it was determined that R.61-99 should be repealed as it is obsolete and no longer enforceable.

See Statement of Need and Reasonableness above.

**Text:**

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



## 26 PROPOSED REGULATIONS

Document No. 4174

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-10 et seq.

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

##### **Preamble:**

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR 260 through 266, 268, 270, and 273 during the calendar year. The South Carolina Department of Health and Environmental Control (Department) proposes to adopt one Final Rule that was published in the period between July 1, 2008 and June 30, 2009, entitled: Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated with Colleges and Universities (Academic Laboratories Generator Standards Rule). This rule was published by the EPA on December 1, 2008 at 73 FR 72912. This rule creates a new Subpart K within 40 CFR part 262. It establishes an alternative set of generator requirements applicable to laboratories owned by eligible academic entities. These requirements are designed to be flexible and protective of the environment while addressing the specific nature of hazardous waste generation and accumulation in eligible academic laboratories. The adoption of the Academic Laboratories Generator Standards Rule is optional to states. The Department intends to amend R.61-79 to maintain conformity with federal regulations by adopting the Academic Laboratories Generator Standards Rule.

The Department is proposing to establish new regulations for transfer facilities where manifested shipments of hazardous waste in containers are stored for 10 days or less. The Transfer Facility Rule being developed would establish requirements for storage of hazardous waste at transfer facilities which would include notification and annual reporting, location standards, financial assurance, closure, contingency and emergency plans. The Department intends to clarify that transfer facilities that store waste greater than 10 days require a storage permit.

The EPA discontinued the National Environmental Performance Track Program (PT) in a Federal Register on May 14, 2009 at 74 FR 22741. The Department is proposing to amend R.61-79 to remove all references throughout the regulations to the EPA's PT Program, as well as the analogous state program, the South Carolina Environmental Excellence Program (SCEEP). These Programs provide regulatory incentives to facilities with good compliance records that are less stringent than Federal standards, such as fewer inspections, reduced paper work, and longer storage times. References to the SCEEP will also be removed because the State cannot be less stringent than Federal regulations. The SCEEP will continue as a recognition program but can no longer provide reduced regulatory incentives.

A Notice of Drafting initiating the statutory process to amend R.61-79 was published in the State Register on September 24, 2010. Notice was also published in the Department's monthly Regulation Development Update and also on the Bureau of Land and Waste Management Public Notices internet site.

Legislative review of these amendments will be required.

#### Section-by-Section Discussion of Proposed Revisions

##### **1. Academic Lab Rule**

###### **261.5(c)(6)**

Remove the period at the end of the paragraph and add a semicolon in order to add a new paragraph.

**261.5(c)(7)**

Add new paragraph discussing the term “eligible academic entity”.

**Add 262.10(j) and [Reserved] to maintain correct outline.**

**Add 262.10(k) and [Reserved] to maintain correct outline.**

**262.10(l)**

Add new paragraph at (l) to establish the optional nature of Subpart K for an eligible academic entity.

**262.10(l)(1)**

Add paragraph to list 262.11 and 262.34(c) exemptions under Subpart K for large and small quantity generators.

**262.10(l)(2)**

Paragraph is added to establish that conditionally exempt small quantity generators are not subject to 261.5(b).

**Add 262 SUBPART J heading and reserve to maintain correct outline.**

**262 Subpart K**

Add new Subpart K to Part 262 entitled: Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities.

**262.200**

Add 262.200. and title: Definitions - to indicate the following are definitions and then add the following definitions alphabetical order:

“Central accumulation area”

“College/University”

“Eligible academic entity”

“Formal written affiliation agreement”

“Laboratory”

“Laboratory clean-out”

“Laboratory worker”

“Non-profit research institute”

“Reactive acutely hazardous unwanted material”

“Teaching hospital”

“Trained professional”

“Unwanted material”

“Working container”

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### **262.201**

Add new heading on applicability of this subpart.

#### **262.201(a)**

This part defines alternative requirements for large and small quantity generators of eligible academic laboratories.

#### **262.201(b)**

Added to define alternative requirements for conditionally exempt small quantity generators of eligible academic laboratories.

### **262.202**

Add new heading: "262.202. This subpart is optional." indicating the optional nature of this part.

#### **262.202(a)**

Defines the optional nature of this section for large and small quantity generators.

#### **262.202(b)**

Defines the optional nature of this section for conditionally exempt small quantity generators.

### **262.203 heading**

Add heading: "262.203. How an eligible academic entity indicates it will be subject to the requirements of this subpart"

#### **262.203(a)**

Add section to tell eligible academic entities specific details in how to apply for Subpart K requirements.

#### **262.203(b)**

Add introductory paragraph with instructions for submitting the Notification and Reporting Form.

#### **262.203(b)(1) - (11)**

Instructions for filling out the Notification and Reporting Form and reason for submitting the form.

#### **262.203(c)**

Add section for records retention requirements

#### **262.203(d)**

This section defines teaching hospital requirements if not owned by college or university to retain formal written agreements to participate in alternate lab rule.

#### **262.203(e)**

This section defines requirements on how Non-profit research institutes, if not owned by college or university, can retain formal written agreements to participate in alternate lab rule.

### **262.204 heading**

Add heading: "262.204. How an eligible academic entity indicates it will withdraw from the requirements of this subpart."

#### **262.204(a)**

This section provides instructions on how eligible academic entities can choose to opt out of subpart K and revert to the requirements of 262.11 and 262.34(c)

**262.204(b) and (b)(1) through (b)(11)**

Provides instructions for filling out and submitting the Notification and Reporting Form.

**262.204(c)**

Add to establish record retention requirements for withdrawing from alternate Subpart K requirements.

**262.205**

Heading and introductory paragraph are added to establish requirements of this subpart.

**262.206**

Add heading: “262.206. Labeling and management standards for containers of unwanted material in the laboratory.” and add an introductory paragraph for labeling and management of unwanted materials in labs.

**262.206(a) and subsections(a)(1), (a)(1)(i), (a)(1)(ii), (a)(1)(ii)(A)&(B), (a)(2) and subsections (a)(2)(i), (a)(2)(ii), and (a)(2)(ii)(A) - (C)**

Add instructions for container labeling of management of unwanted material in labs.

**262.206(b) introductory paragraph, (b)(1)-(3), (b)(3)(i)-(iii), and (b)(3)(iii)(A)&(B)**

Add to provide instructions for management of containers in the laboratory

**262.207 heading, introductory paragraph, (a), (b), and (b)(1)-(5)**

Add heading: “262.207. Training.” and add instructions on providing training to all individuals working in a laboratory at the eligible academic labs.

**262.207(c) introductory paragraph, (c), and (c)(1)-(4)**

Add to provide instructions for documenting training for large quantity generators in an eligible academic entity.

**262.207(d) and (d)(1)-(2)**

Define the requirements of a trained professional in handling unwanted material and hazardous waste including a hazardous waste determination.

**262.208 heading, 208(a), (a)(1)-(2), (b)-(d), (d)(1), (d)(1)(i)-(ii), (d)(2), (d)(2)(i)-(ii)**

Add heading: “262.208. Removing containers of unwanted material from the laboratory.” Provide instructions for removing containers of unwanted material from labs, schedules for removals and how the schedule must be specified in the Lab Management Plan as well as volume and time limits including reactive acutely hazardous unwanted material and how it should be handled.

**262.209 heading, 209(a) and (a)(1)-(3)**

Add heading: “262.209. Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.” Provide instructions on where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the lab.

**262.209(b)**

Add to instruct conditionally exempt small quantity generators to ensure that a trained professional makes a hazardous waste determination of unwanted material in the lab prior to the removal of the unwanted material.

**262.210 heading, introductory paragraph, (a)-(b), and (b)(1)-(3)**

Add heading: “262.210. Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory.” Provide the instructions for making a waste determination by a trained professional before the unwanted material is removed from the lab, the labeling of hazardous waste on

## **30 PROPOSED REGULATIONS**

the container label as well as the waste codes associated with the container and dates, account for the number of hazardous waste containers for determination of the eligible academic entity's generator status.

### **262.210(c)**

Add requirement that a trained professional must accompany the waste to accumulation areas or permitted treatment, storage or disposal facilities.

### **262.210(d), (d)(1)-(2)**

Provide instructions to large and small quantity generators as well as conditionally exempt small quantity generators when hazardous waste is removed from the laboratory.

### **262.210(e)**

Instructs that if unwanted material is determined to be a hazardous waste, it is subject to all hazardous waste regulations once it is removed from the lab.

### **262.211 heading, introductory paragraph, 211(a)-(d)**

Add heading: "262.211. Making the hazardous waste determination at an on-site central accumulation area." Provide instructions for unwanted material waste determination by a trained professional and how this material must be removed and taken to an on-site central accumulation area where it becomes subject to generator accumulation regulations.

### **262.211(e), (e)(1)-(4)**

Instructions, once unwanted material is determined to be a hazardous waste, in terms of labeling, time frames for on-site accumulation areas and counting the hazardous waste to determine the eligible academic entity's generator status.

### **262.212 heading, introductory paragraph, 212(a)-(d)**

Add heading: "262.212. Making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility." Provide instructions for making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility if an eligible academic entity makes the hazardous waste determination, defines the role of a trained professional in making the waste determination as well as the requirements for transferring the unwanted material from the labs and the time frames in which this must be done.

### **262.212(e), (e)(1)-(4)**

Instructs handling, labeling and accounting for the volume of waste once it has been determined hazardous waste to determine the eligible academic entity's generator status within 4 calendar days of arriving at the on-site interim status or permitted treatment, storage or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage or disposal facility.

### **262.213 heading, (a), and (a)(1)-(4)**

Add heading: "262.213. Laboratory clean-outs." Defines what constitutes an annual laboratory clean out and explains how the eligible academic entities Subpart K lab requirements differ from standard RCRA lab requirements in terms of storage and time frames for site accumulation and determination of generator status as well as required record keeping.

### **262.213(b), (b)(1)-(2)**

Sets out requirements for all other lab clean-outs done within the 12 month period in addition to the allowed one time cleanout.

### **262.214 heading, introductory paragraph, 214(a)-(d)**

Add heading: "262.214. Laboratory management plan." Explains requirements for a written Laboratory Management Plan consisting of two parts and nine elements to meet requirements for best management

practices including labeling procedures, consistent defining of “unwanted material” or similar term, which set of rules the lab will meet for managing and removing hazardous waste or unwanted material, training and all necessary details for meeting requirements of either subpart K or the standard lab requirements under RCRA, record keeping and labeling.

**262.215 heading and (a)-(b)**

Add heading: “262.215. Unwanted material that is not solid or hazardous Waste.” Describes how a lab is to manage unwanted material that is not solid or hazardous waste.

**262.216 heading, introductory paragraph and 216(a) & (b)**

Add heading: “262.216. Non-laboratory hazardous waste generated at an eligible academic entity.” Add introductory paragraph and 216(a) & (b) to define requirements for non-laboratory hazardous waste generated at an eligible academic entity.

**2. Transfer Facilities**

**263.12(a)**

Add (a) after 263.12 in order to add other subparts to section 263.12, add regulatory requirements for transfer facilities that store waste for 10 days or less, and add a clarifying sentence requiring a storage permit for a transfer facility that stores waste for more than 10 days.

**263.12(b)(1)-(4)**

This section is added to list requirements for transfer facilities including obtaining an EPA/DHEC identification number and providing notification of the intent to store waste and a requirement to update information annually.

**263.12(c)(1) and (i)-(vii)**

Add section to provide instructions for requirements to notify the Department to certify that the site meets location standards, to provide financial assurance, to provide a description of transfer facility operations, to provide a copy of the closure plan and a copy of contingency and emergency plans.

**263.12(c)(2) and (3)**

Add sections to require the facility to notify the Department of any changes in the original plan.

**263.12(d), (d)(1)-(2) and (e)**

Add sections to enumerate requirements for transfer facilities and exceptions for container storage at a transfer facility.

**263.12(f), and (f)(1)-(4)**

Add to define record keeping and manifest requirements.

**263.12(g)**

Add to define requirements for closure of a transfer facility.

**263.12(h)**

Sets standards for initial construction, operation, or substantial modification of plans for a transfer facility.

**263.13 Revise heading to read: “Transportation notification requirements.”**

**3. Performance Track**

This section removes all references to the federal Environmental Performance Track program and the South Carolina Environmental Excellence Program because the EPA discontinued the federal program in a Federal

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Register Notice on May 14, 2009 at 74 FR 22741. The South Carolina Environmental Excellence Program references must also be removed because the State cannot provide regulatory incentives because it would make South Carolina regulation less stringent than federal regulation.

### **260.10 Definitions**

Remove the following definition: “Performance Track and/or South Carolina Environmental Excellence Program member facility”

### **262.34(j)**

Remove all of 262.34(j) including (j)(1)-(9) and the subparts therein and mark [Reserved].

### **262.34(k)&(l)**

Remove all of both sections and mark [Reserved].

### **264.15(b)(4)**

Remove the reference to the Performance Track and/or South Carolina Environmental Excellence Program.

### **264.15(b)(5), and (b)(5)(i)-(iii)**

Remove all of the listed sections.

### **264.174**

Remove the exceptions for the Performance Track and/or South Carolina Environmental Excellence Program.

### **264.195(e)**

Remove all of 264.195(e) relating to the Performance Track and/or South Carolina Environmental Excellence Program.

### **264.1101(c)(4)**

Remove exception and reference to the Performance Track and/or South Carolina Environmental Excellence Program.

### **265.15(b)(4)**

Remove exception for the Performance Track and/or South Carolina Environmental Excellence Program.

### **265.15(b)(5) and (5)(i)-(iii)**

Remove all sections discussing rules of the Performance Track and/or South Carolina Environmental Excellence Program.

### **265.174**

Remove exception for the Performance Track and/or South Carolina Environmental Excellence Program.

### **265.195(d)**

Remove all of the section which references the Performance Track and/or South Carolina Environmental Excellence Program and reserve.

### **265.201(e)**

Remove all of the section which references the Performance Track and/or South Carolina Environmental Excellence Program and reserve.

### **265.1101(c)(4)**

Remove exceptions listed for the Performance Track and/or South Carolina Environmental Excellence Program.

**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 Tuesday, January 25, 2011 at 10:00 a.m. in Room 1041 at the Stern Building at 8911 Farrow Road Suite 106. The purpose of the forum is to answer questions and to receive public comments from interested persons on the proposed amendment of R.61-79.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation at the forum or during a public comment period by writing to Richard Haynes, Director, Division of Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on January 25, 2011, the close of the public comment period. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing before the Board as noticed below.

Information or copies of the proposed text for public notice and comment may be obtained at the Department's Regulation Development Update under the Land and Waste Category at <http://www.scdhec.gov/regulatory.htm>, or at the Land and Waste website at: <http://www.scdhec.gov/lwm/html/public.html> or by calling Carolyn McLaughlin at (803) 896-4254.

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

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

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment of R.61-79 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on March 10, 2011. 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. 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:**

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

**Statement of Need and Reasonableness:**

This Statement of Need and Reasonableness complies with Sections 1-23-115(c)(1)-(3) and (9)-(11), S.C. Code of Laws, 1976, as amended.

DESCRIPTION OF REGULATION: Proposed amendment of R.61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of this amendment is to maintain State consistency with regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 261 through 270, between July 1, 2008 and June 30, 2009. The Department also proposes to adopt a state initiated Transfer



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Facility Rule and to remove all references to the National Environmental Performance Track Program (PT) and the analogous state program, the South Carolina Environmental Excellence Program (SCEEP).

Legal Authority: South Carolina Hazardous Waste Management Act, Section 44-56-10 et seq., S.C. Code of Laws, 1976, as amended.

Plan for Implementation: Upon final approval by the Board of Health and Environmental Control, the South Carolina General Assembly, and publication in the State Register as a final regulation, amended regulations will be provided in hard copy to the community at cost through the Department's Freedom of Information Office and in electronic format on the SCDHEC Bureau of Land and Waste Management web site.

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

The Department has chosen to adopt the optional provision for 262 Subpart K, the Academic Laboratory Rule, to provide alternate generator standards for managing hazardous waste generated in academic laboratories. This rule addresses special needs of "eligible academic entities". Eligible academic entities include teaching and research labs, colleges and universities and non-profit research institutes affiliated with a college or university. The labs can choose to remain under standard RCRA rules or to be regulated under the optional Subpart K rules. Subpart K establishes specific criteria for best management practices that are compatible to academic labs while being protective of the environment and lab personnel. Some of the unique problems faced by academic labs include student workers who are transient to the lab, quantities of undetermined "unwanted wastes" and the fear that clean ups of labs would change the generator status of the facility managing a lab clean up with the collection of "unwanted waste". The Department has received comments in support of adopting this rule from eligible academic entities.

The Department proposes to develop regulations for transfer facilities that store hazardous waste on-site for 10 days or less. These facilities are currently not regulated. The proposed regulation would provide for notification, reporting, and operating requirements that are protective of human health and the environment.

The EPA discontinued the National Environmental Performance Track Program (PT) in a Federal Register on May 14, 2009 at 74 FR 22741. The state had a program, the SC Environmental Excellence Program. The benefits of becoming eligible for these two programs were reduced inspections and longer storage times. State regulation cannot be less stringent than federal provisions. Therefore, the Department is proposing to remove all references to the national program since it is no longer part of the federal program. The state program can no longer provide regulatory incentives but can continue as a recognition program but not as part of the regulation.

### DETERMINATION OF COSTS AND BENEFITS:

#### 1. Academic Laboratory Rule

(a) Adoption of the Academic Laboratory Rule would have minimal impact with regards to costs to the State. Academic laboratories that choose to be regulated under this Rule will be subject to approximately the same level of oversight as those that choose not to be regulated under this Rule.

(b) EPA estimates that Large Quantity Generators (LQG) in states that adopt this rule could see an average annual savings of \$12,200 per LQG opting into this rule; Small Quantity Generators (SQG) could see an average annual savings of \$1,000 per year and Conditionally Exempt Small Quantity Generators (CESQG) could see an increase so it is expected that CESQGs would not choose to be regulated under Subpart K. Overall, the average annual aggregate net cost savings for eligible academic entities operating under Subpart K are estimated at approximately \$396,000 or \$3,500 per entity. In addition, labs will benefit because they will be able to maintain their RCRA generator status rather than episodically increasing their generator status by

generating lab clean outs. This will encourage labs to do regular cleanouts. The structured nature of the lab management plan (LMP) is expected to result in safer lab practices, minimize exposure to people and the environment, increase proper hazardous waste management and improve waste handling techniques and waste minimization.

## 2. Transfer Facility Rule

(a) Regulating transfer facilities that store hazardous waste for 10 days or less would initially be more labor intensive for Department staff but would have minimal increased costs in contrast to the benefits of providing a mechanism to ensure proper safeguards at these facilities.

(b) There are a total of eighteen (18) permitted transporters of hazardous waste located in the State that could be impacted by this proposed regulation. The majority of transfer facilities in the State would not store waste for greater than 10 days and therefore would not need a permit. These transfer facilities would incur costs to submit the required documentation to the Department.

## 3. Performance Track Rule

The EPA's Performance Track program has been discontinued by the EPA pursuant to the Federal Register notice on May 14, 2009 at 74 FR 22741. No costs are incurred by the state or regulated community.

### UNCERTAINTIES OF ESTIMATES:

No known uncertainties.

### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The overall effects of the Academic Laboratories Generator Standards Rule are expected to be beneficial to the public health and environment by providing flexibility to academic labs while still meeting RCRA hazardous waste management standards. Each lab has to develop and maintain a Laboratory Management Plan (LMP). The structured nature of the LMP is expected to result in safer lab practices and increased awareness of hazardous waste management. The LMP requires training for students as well as professionals who handle hazardous waste in the labs. The LMP will minimize exposure to humans and the environment to hazardous wastes. Ultimately, LMPs are expected to improve the way eligible academic entities coordinate and integrate their hazardous waste management activities and enhance awareness about proper lab waste handling techniques. The rule includes incentives to encourage more frequent lab clean-outs of unwanted and unused reagents, reducing the potential for accidental releases of these chemicals into the environment. The EPA also anticipates non-quantified economic gains through improved hazardous waste management practices, waste minimization and waste coordination activities.

Transfer facilities are currently not regulated by the Department. By establishing a notification process, greater oversight in the management of these facilities will be provided, protecting human health and the environment.

The National Environmental Performance Track Program (PT) has been cancelled by the EPA and the State program can only continue as a recognition program because providing regulatory incentives would make the State less stringent than federal regulation. However, the recognition aspect of the program would serve to promote sound environmental practices, encouraging protection of the environment.

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

Academic laboratories would not have flexible options for regulation of lab waste and would have to be regulated by standard RCRA generator requirements. The accumulation of mixed waste that is not adequately characterized and handled properly poses a threat to the environment and the state.

Transfer facilities could continue to store hazardous waste without adequate safeguards or oversight, including financial assurance, emergency and closure plans.

The National Environmental Performance Track Program rule has been withdrawn and the detrimental effect of not removing it from regulation would be the confusion of the existence of a regulation that is no longer in effect.

### **Statement of Rationale:**

The Department has decided to adopt this rule to provide flexibility to Academic labs and other eligible entities that have unique problems that make it difficult to meet the standard RCRA requirements for generators. This rule provides flexibility to these eligible academic entities while being protective of the environment and the population. Conditionally exempt small quantity generators that might not benefit from the alternative regulation can choose to be regulated under standard RCRA generator standards.

The Transfer Facility Rule is a state initiated rule proposed to provide regulatory framework to oversee transfer facilities where hazardous waste is stored for ten (10) days or less and to provide a mechanism for financial assurance in the event of a spill or leak or other potential harm to the environment.

The National Environmental Performance Track Program Rule is being withdrawn because the program was terminated by the US EPA and needs to be removed from state regulation.

See Statement of Need and Reasonableness above.

### **Text:**

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

Document No. 4168  
**PERPETUAL CARE CEMETERY BOARD**  
CHAPTER 21

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

21-1 through 21-27. Perpetual Care Cemetery Board

**Preamble:**

The 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.

Section-by-Section Discussion

The following is a section-by-section discussion of the amendments proposed by the Perpetual Care Cemetery Board:

21-1. General Purpose.

Deletes former title of “Board Location”, and replaces with description of the purpose of the board.

21-2. Definitions.

Deletes former title of “General Purpose”, and replaces with supplemental definitions for the board.

21-3. Disclosures.

Deletes former title of “Areas of Responsibility”, and replaces with instructions for disclosures sent to the board.

21-4. Outer Burial Container.

Deletes former title of “Functions of the Board”, and replaces with instructions for disclosure to purchasers of outer burial containers.

21-5. General Manager Requirements.

Deletes former title of “Examinations”, and replaces with requirements for the general manager of a cemetery.

21-6. Correct Documentation Required for Cemetery Application.

New section; clarifies ninety (90) day requirement for granting or refusing authority to organize a cemetery.

21-7. Records Retention.

New section; clarifies records retention and inspection availability.

21-8. Death of Cemetery Owner.

New section; clarifies licensure requirement for inheritor of cemetery once the previous owner has died.

21-9. Policies and Procedures; Vendors.

New section; clarifies policies and procedures for board and vendors.

21-10. Meetings.

Deletes former title of and section for “Cemetery Board Members”; renumbers former R.21-11.

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### 21-11. Care and Maintenance Trust Funds.

New section; provides requirements for care and maintenance funds.

### 21-12. Report of Deposits.

Renumbers former R.21-20; provides for reporting of deposits for care and maintenance funds.

### 21-13. Location of Fund.

Renumbers former R.21-21; updates statute reference.

### 21-14. Transfer of Funds.

Renumbers former R.21-22.

### 21-15. Commingling of Deposits.

Renumbers former R.21-23.

### 21-16. Reports of Deposits.

Renumbers former R.21-30; provides for reporting of deposits for merchandise funds.

### 21-17. Location of Fund.

Renumbers former R.21-31; changes “trust” to “financial” before “institution”.

### 21-18. Deposits to Merchandise Fund.

Renumbers former R.21-32; changes “Maintenance” in title to “Merchandise” and changes “trust” to “financial” before “institution”; deletes “trust” and “trustee” throughout.

### 21-19. Withdrawals from Merchandise Fund.

Renumbers former R.21-33; deletes “trust” throughout; updates language for clarity.

### 21-20. Reports.

Renumbers former R.21-40; deletes “trust” throughout; updates language for clarity.

### 21-21. Deposits to Fund.

Renumbers former R.21-41; deletes “trust” throughout; updates language for clarity.

### 21-22. Withdrawals from Pre-Construction Fund.

Renumbers former R.21-42; deletes “trust” and “trustee” throughout; updates language for clarity.

### 21-23. Application and Filing Fee.

Renumbers former R.21-50.

### 21-24. Cemetery Company License.

Renumbers former R.21-51.

### 21-25. Change of Control.

Renumbers former R.21-52; rewords for clarity.

### 21-26. Cemetery Rules and Regulations.

Renumbers former R.21-53.

### 21-27. Nature Preserve Exemption Requirements.

New section; provides exemption requirements for a nature preserve.

21-60 through 21-64.  
Deleted.

**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 of Laws of South Carolina, as amended, such hearing will be conducted before the Board at 1:00 p.m. on February 9, 2011. Written comments may be directed to Doris Cubitt, Administrator, Perpetual Care Cemetery Board, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., January 24, 2011. If a qualifying request pursuant to Section 1-23-110(b) is not timely received, the hearing will be canceled.

**Preliminary Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

The South Carolina Perpetual Care Cemetery Board proposes to promulgate amended regulations which address licensure, renewal, and continuing education.

**DESCRIPTION OF REGULATION:**

Purpose: To amend the regulations for licensure.

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

Plan for Implementation: Administratively, the Board will see that these provisions are implemented by informing the public through written and oral communications, and posting all changes on its website.

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

These regulations need to be amended in order to implement 2002 Act 322 and to reflect other developments in cemetery regulation since 2002.

**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 these regulations.

**EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:**

These regulations will have no direct effect on the environment. The public health and the business environment of this State will be enhanced by conforming the regulations to the statute.

## **40 PROPOSED REGULATIONS**

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

There will be no direct detrimental effect on the environment and public health of this State if the regulations are not implemented in this State. The conflicts between statute and regulation may have a detrimental effect on the business environment.

### **Statement of Rationale:**

The regulations are amended to conform to 2002 Act 322.

### **Text:**

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

**Filed: December 9, 2010 3:15pm**

Document No. 4173  
**STATE BOARD OF EDUCATION**  
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-5-65 (2004), 59-29-10 *et seq.* (2004) (Supp. 2009), 59-39-10 *et seq.* (2004)(Supp. 2005), 59-53-1810 (2004), 59-59-10 *et seq.* (Supp. 2009); and No Child Left Behind Act of 2001, 20 U.S.C. 6301 *et seq.* (2002)

43-234. Defined Program, Grades 9–12

**Emergency Situation:**

This emergency regulation amends State Board of Education Regulation 43-234. Because of the transition of the end-of-course examination in science from physical science to biology, there has been confusion as to which course students need in order to graduate from high school. The transition occurs this school year, and there is an immediate need to address this situation because students may not be able to graduate on time because of this change. S.C. Code Ann. Section 59-18-310 requires students to “pass a high school credit course in science and a course in United States history in which end-of-course examinations are administered to receive the state high school diploma.” However, that law does not stipulate the identity of the science course. State Board of Education Regulation 42-234 is more restrictive than the statute because it defines, for graduation purposes, the course as the course that carries the end-of-course test which has been approved by the United States Department of Education. Since the state does not know when that approval will take place, this creates an unfair burden on students to guess as to which course to take. This emergency regulation will allow students with credits in either biology or physical science to graduate.

**Text:**

43-234. Defined Program, Grades 9–12.

I.C. The student must pass a high school credit course in science (beginning with the graduating class of 2010) in which state-administered end-of-course examination is administered. Beginning with the graduating class of 2011, students who earned a high school credit in a course that has a state-administered end-of-course examination prior to the end-of-course examination being offered by the state, may use that science course for graduation credit without taking the end-of-course exam. If a state-administered end-of-course examination is discontinued, only those students who took the course and received credit for the course during the time in which the end-of-course exam was given by the state will be able to count the credit toward graduation.



## 42 EMERGENCY REGULATIONS

Filed: November 29, 2010 9:54am

Document No. 4167  
**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. Wildlife 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 extends through January 15, it is necessary to re-file these regulations as emergency.

#### **Text:**

#### WILDLIFE MANAGEMENT AREA PUBLIC DOVE FIELDS 2010-11

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.

#### Statewide Season Dates:

September 4 - October 9 (Sept. 4-6 Afternoons only): November 20 - November 27: December 21 - 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 4 – October 9).

#### ABBEVILLE

U.S. Forest Service, Parson Mountain WMA

Bass Road Field - 5 mi. east of Abbeville on SC-72, ¼ mile south on Bass Rd., 60 acres. Special Youth Hunt on Sept. 4 (see Youth Hunt List for details). 1<sup>st</sup> season – Saturdays Only beginning Sept. 18, 2<sup>nd</sup> and 3<sup>rd</sup> season – Open Mon. – Sat.

#### AIKEN

US Dept of Energy, Crackerneck WMA

From SC 125/CR62 (Silverton Rd) in Jackson, take Silverton 0.4 mi. to Main St., left on Main for 0.4 mi., then right on Brown Rd. for 2.1 mi. Turn left on gravel road, at end of pavement go 0.2 mi. to check station, 40 acres. 1<sup>st</sup> season – Sept. 8 & 22; 2<sup>nd</sup> & 3<sup>rd</sup> season – Fridays, Saturdays & Thanksgiving Day ONLY.

**ANDERSON**

Clemson University - Fant's Grove WMA

From US 76/ SC 28 south of Clemson Take SC 187 to Fant's Grove Rd. 1.5 miles W, 45 acres. 1<sup>st</sup> season, Saturdays – FIELD CLOSED OCT. 2<sup>nd</sup>, Open 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Saturdays Only.

**\*BERKELEY**

U.S. Army Corps of Engineers - Canal WMA (Above Powerhouse) From St. Stephen Take SC 45 west for 1.5 miles or continue to County Rd 35. Go Left about .3 miles, 60 acres. Sept. 4, 18; Oct. 2; Nov. 20.

U.S. Army Corps of Engineers - Canal WMA (Below Powerhouse) From St. Stephen Take SC 45 E for 2.5 miles Turn Left on first paved road, (Arrowhead Landing Rd) 40 acres. Dove Hunting Only - Sept. 4, 18; Oct. 2; Nov. 20.

**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 (just beyond the Edisto Serpenterium), 8.5 mi. south of the McKinley Washington Bridge. 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. 4 (Youth Only – no pre-registration required) Sept. 15; Nov. 20 (Youth Only); Dec. 30; Jan. 13.

**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. Saturdays Only, Dove Hunting Only.

**CHESTER**

U.S. Forest Service - Worthy Bottoms

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

**CHESTERFIELD**

SC Forestry Commission – Sand Hills State Forest

Wilkes Chapel Field. From Sand Hills State 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 –Saturdays Only, 2nd & 3rd seasons - Open Mon. - Sat.

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. 4 and Wednesdays Only beginning Sept. 15. 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat.

**\*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. 4, 18; Oct. 2; Nov. 27; Jan. 1. Dove Hunting Only – (803) 734-3898.

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. 4, 18, Oct. 2; Jan. 8 & 15. Opening day participants selected by drawing. Apply in writing by Aug. 13 to Dove Hunt, PO Box 167, Columbia, SC 29202. Limited space available. Dove Hunting Only.

## **44 EMERGENCY REGULATIONS**

### **\*COLLETON**

DNR - Bear Island WMA

Closed due to staff/budget cuts.

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. 4, 15, 22; Nov. 27.

### **DARLINGTON**

DeWitt Property from I-20 (Exit 137) go South on SC 340 (towards Timmons ville) 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. 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Seasons - Wednesdays, Dove Hunting Only.

### **FLORENCE**

Santee Cooper – Pee Dee Station Site WMA

Field is located in Kingsburg 4.7 miles north of US Hwy 378 off State Rd. 57. Field on left (33°56'22.69" - 79°29'45.37") 60 acres. 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Seasons Saturdays Only – Dove Hunting Only.

### **GEORGETOWN**

DNR Samworth WMA

Closed due to staff/budget cuts.

### **\*HAMPTON**

DNR - Webb Wildlife Center

2.5 miles west of Garnett on Augusta Stage Coach Rd., 35 acres - Sept. 4, 15, 22; Nov. 24.

### **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. 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> seasons - Wednesdays 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. 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> seasons - Saturdays 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. 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> seasons Saturdays Only - Dove Hunting Only.

### **MCCORMICK**

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

Bordeaux Work Center Field – From intersection of Hwys 28 & 378 in McCormick: Hwy 378 west 5.5 mi. to Hwy 7. Right onto Hwy 7; go 3 mi. to S-33-135 (Willington Academy Dr) Left onto S-33-135; go 1.5 mi. to S-33-110 (McIntosh Rd) Left onto S-33-110; go 1.5 mi. to field entrance on the left. 40 acres. Sept. 4 & 15; Oct 6; Nov. 24; Jan. 5 & 15 only, Dove Hunting Only.

**U.S. Army Corps of Engineers – Key Bridge WMA**

Parksville Field – ¼ mi. north of Parksville on Hwy 28. 22 acres. 1<sup>st</sup> season – Saturdays Only, 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. - Sat.

**U.S. Forest Service - Key Bridge WMA**

Cunningham Fields – From intersection of Hwys 28 & 283 in Plum Branch; Hwy 283 E for 5 mi. to F688. Right onto F688; travel south for ¾ mi. until road forks. From the fork, one field is 0.3 mi. farther down F688 and another is 0.6 mi. down F688B. 40 acres. 1<sup>st</sup> season –Saturdays Only, 2<sup>nd</sup> & 3<sup>rd</sup> seasons - Open Mon. - Sat.

**US Army Corp of Engineers, Key Bridge WMA**

Plum Branch Saddle Club Fields – From Plum Branch take S-33-57 (Collier St) 2 mi. west, field on right in sharp-left curve. 30 acres. 1<sup>st</sup> season – Saturdays 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 Hwy 28, 1.5 mi. west on SR-19 (Mars Bridge Rd). One field on SR-19 and one field on F579. 60 acres. 1<sup>st</sup> season – Saturdays Only, 2<sup>nd</sup> and 3<sup>rd</sup> season – Open Mon. - Sat.

**MCCORMICK**

**U.S. Forest Service, Key Bridge WMA, Price Mill Field**

From Parksville: Take S-33-138 (Price Mill Rd) East 2.5 miles; Field on Right. 60 acres. 1<sup>st</sup> season – Saturdays 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. 11, Dove Hunting Only. Sept. 4 is Youth Hunt Only – Pre-registration required.

**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. Beginning Sept. 4 - Saturdays Only, Dove hunting only. 3<sup>rd</sup> season – Closed.

**U.S. Forest Service – Long Creek Tract**

In order to hunt, adults must have 1 or 2 youth age 17 or younger. Disability hunters must contact the U.S. Forest Service Andrew Pickens office 864-638-9568 for permit requirements and access. From Westminster take Hwy 76 to Long Creek, take a left on Orchard Rd, proceed ¾ mi. to field on right. 20 acres. 1<sup>st</sup> season – Saturdays only beginning Sept. 18, 2<sup>nd</sup> season – Open November 20 Only – 3<sup>rd</sup> 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. Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons Saturdays Only Beginning Sept. 4.

**\*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. 4 is Youth Hunt Only – Pre-registration required. Sept 18; Oct. 2; Nov. 24; Jan. 1. Dove Hunting Only.

## 46 EMERGENCY REGULATIONS

### PICKENS

#### DNR Property

South of Pickens off Sec Rd 304 near SC Highway Dept. Bldg., 40 acres. Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons Saturdays Only Beginning Sept. 4. Dove Hunting Only.

#### Clemson University - Gravely WMA - Causey Tract

From SC 11 Go south on Sec Rd 112 at Cendy's Store, Turn east on Sec Rd 114 & Go 0.5 miles; 25 acres. Open 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> seasons. Saturdays Only Beginning Sept. 4.

### 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 – Saturdays only, 2<sup>nd</sup> & 3<sup>rd</sup> seasons – Open Mon. – Sat.

#### 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. Saturdays Only, Dove Hunting Only.

### SUMTER

#### S.C. Forestry Commission - Manchester State Forest

##### Directions from Wedgefield

Bland Field 1 – Take Hwy 261 North 0.7 mi. to Bland entrance sign, turn right and follow dirt road to field. 50 ac. Sept. 4 is Youth Hunt Only – Pre-registration required. 1st season – Sat. (Designated Fields) 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

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

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

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. Opening day participants selected by drawing. Apply in writing by Aug. 13 to Dove Hunt, PO Box 167, Columbia, SC 29202. Limited spaces available. 1st season – Sat. (Designated Fields) 2nd & 3rd seasons - Open Mon. - Sat. (Designated Fields and the general forest).

### 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 – Saturdays Only 2<sup>nd</sup> & 3<sup>rd</sup> seasons open Mon. – Sat.

#### 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 – Beginning Sept. 11. 2nd & 3rd seasons - Open Mon. - Sat.

**YORK**

DNR - Draper Tract

3.5 miles E of McConnell on SC 322, Turn Right on Sec Rd. 165 (Brattonville Rd.), Go .5 miles, Turn Right, Two 30 acres Fields. 1st season –Saturdays Only, 2nd & 3rd seasons Open Mon. - Sat. Opening day participants selected by drawing. Apply in writing by Aug. 17 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 – Saturdays only, 2<sup>nd</sup> & 3<sup>rd</sup> seasons Open Mon. - Sat.

**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 accompanying youth are NOT allowed to shoot at any time during Special Youth Dove Hunts. (2) Adults must remain in the field and closely supervise participating youth at all times. (3) In parties of one adult and 2 youths, only one youth hunter may be handling a loaded firearm at any given time. (4) Bag limit is 15 birds per youth participant. Birds harvested by individual hunters must be kept separate and in no instance may an individual hunter harvest more than 15 birds.

To apply for Special Youth Dove Hunts requiring preregistration, applicants must supply the following information for each member of the hunt party: Name, age, address, and phone number. Successful applicants will be notified by mail.

**ABBEVILLE YOUTH HUNT**

U.S. Forest Service – Parson Mountain WMA

September 4 - Participants selected by drawing. Apply in writing or call by August 13 to SCDNR, 2751 Hwy 72 East, Abbeville, SC 29620. Limited space available. (864) 223-2731.

**CHARLESTON YOUTH HUNT**

Botany Bay Plantation WMA

September 4 & November 20. No pre-registration required.

**NEWBERRY YOUTH HUNT**

SCDOT – McCullough Field

September 4 - Limited Space Available. Participants selected by drawing. Apply in writing or call by Aug. 13 to DNR, Youth Dove Hunt, PO Box 167, Columbia, SC 29202.

**OCONEE YOUTH HUNT**

U.S. Forest Service – Long Creek Tract

September 4 - Participants selected by drawing. Apply by Aug. 13 to DNR, 311 Natural Resources Dr, Clemson, SC 29631 - Limited Space Available. For application, call (864) 654-1671 ext. 16.

**ORANGEBURG YOUTH HUNT**

Santee Cooper – Santee Cooper WMA

September 4 - Limited Space Available. Participants selected by drawing. Apply in writing or call by Aug. 13 to DNR, Youth Dove Hunt, PO Box 167, Columbia, SC 29202.

## **48 EMERGENCY REGULATIONS**

### **SUMTER YOUTH HUNT**

Manchester State Forest near Wedgefield Bland Tract – Field 1.

September 4 - Limited Space Available. Participants selected by drawing. Apply in writing or call by Aug. 13 to DNR, Youth Dove Hunt, PO Box 167, Columbia, SC 29202.

### **UNION YOUTH HUNT**

U.S. Forest Service near Sedalia

September 4 - Limited space available. Participants selected by drawing. Apply in writing or call by Aug. 13 to DNR, 124 Wildlife Dr, Union, SC 29379.

### **YORK YOUTH HUNT**

DNR Draper WMA

September 4 - Participants selected by drawing. Apply in writing or call by Aug. 17 to DNR, 124 Wildlife Dr, Union, SC 29379. 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 extend through January 15, it is necessary to re-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: November 29, 2010 9:54am**

Document No. 4166

### **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

### **Emergency Situation:**

These emergency regulations amend and supersede South Carolina Department of Natural Resources Regulation Number 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 extend through January 1, it is necessary to re-file these regulations as emergency.

**Text:**

123-40. Wildlife Management Area Regulations.

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

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

**(A) Game Zone 1**

**Chauga, Franklin L. Gravely, Caesar’s Head**

Archery Only Hunts For Deer on WMA (No dogs)	Oct. 17 – Oct. 30, Dec. 23 – Jan. 1	Total of 2 deer for all archery only hunts. 2 per day, either-sex.
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Glassy Mountain Archery Only Area – Chestnut Ridge Heritage Preserve

Located on the southwest side of the South Pacolet River and west of the junction of the South Pacolet River and its’ main tributary creek as posted.

Archery Only Hunts For Deer (No Dogs)	Oct. 1 – Oct. 16 Oct. 31– Jan. 1	Total 2 deer, 2 per day, either-sex.
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Special Party Dog Hunt For Bear Only	Oct. 24 – Oct. 30	5 bears per party, no bears 100 lbs. or less, no sow with cubs at her side. Groups hunting together are considered 1 party.
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Parties of 25 or less must register with SCDNR, 311 Natural Resources Drive, Clemson, SC 29631 by September 1. All harvested bear must be reported to the Clemson Wildlife Office @ 864-654-1671 within 24 hours of harvest.

Hogs and Coyotes

On each WMA property, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs during the still gun and primitive weapons hunts for deer or bear or during turkey season. Hog hunters must use small game weapons during small game-only season.

**(B) Game Zone 2**

Hogs and Coyotes: On WMA lands in Game Zone 2, hogs and coyotes may be taken during the open season for any game. No hog or coyote hunting with dogs during still gun and primitive weapons hunts for deer or during turkey season. Only small game weapons allowed during the small game-only seasons.

**Keowee WMA**

Hogs and Coyotes: On Keowee WMA property, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs during the still gun and primitive weapons hunts for deer or during turkey season. Hog hunters must use small game weapons during small game-only season.



## 50 EMERGENCY REGULATIONS

### Fants Grove WMA

Archery Only (No dogs)	Oct. 15 – Dec. 22	Total of 3 deer, 2 per day, either-sex. Not to include more than 1 buck.
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Hogs and Coyotes: On Fants Grove WMA, feral hogs and coyotes may be taken during the open season for any game. No hog hunting with dogs during the still gun and primitive weapons hunts for deer or during turkey season. Hog hunters must use small game weapons during small game-only season.

### (C) Crackerneck WMA and Ecological Reserve

All individuals must sign in and out at main gate. Quality Deer Management Area – antlered deer must have at least 4 points on one side or a minimum 12-inch antler spread. Scouting seasons (no weapons), will be Saturdays only during September and March. The gate opens at 6:00am and closes at 8:00pm. On deer hunt days, gates will open as follows: Oct., 4:30am-8:30pm; Nov. - Dec., 4:30am-7:30pm. For special hog hunts in Jan. and Feb., gate will be open from 5:30am-7:00pm. Hog hunters are required to wear either a hat, coat or vest of international orange. Hogs may NOT be taken from Crackerneck alive and hogs must be shown at check station gate. No more than 4 bay or catch dogs per party. On Saturday night raccoon hunts, raccoon hunters must cease hunting by midnight and exit the gate by 1:00am. On Friday night raccoon hunts, raccoon hunters must cease hunting by 1 hour before official sunrise and exit the gate by official sunrise. All reptiles and amphibians are protected. No turtles, snakes, frogs, toads, salamanders etc. can be captured, removed, killed or harassed.

### (I) Santee Cooper WMA

Data cards required for hunter access. Completed data cards must be returned daily upon leaving Santee Cooper WMA. Hunters limited to two (2) deer/tree stands which must contain a label with the hunter's name and address. No stands may be placed on Santee Cooper WMA prior to Sept. 15.

### (Z) Donnelley WMA

Deer

All hunters must sign in and out at the check station. Hunting in designated areas only. Scouting season for archery only on the day before season opens. Hogs can be taken during all deer hunts.

Archery (no dogs)	Oct. 1 – Oct. 5 Nov. 1 – Nov. 5 Dec. 1 – Dec. 5	Total 4 deer either-sex, except no more than 1 buck with a minimum 4 points on one side or a minimum 12-inch antler spread except antlerless only during special antlerless only hunts. Hogs-no limit.
Still Gun Hunts	No open season except for hunters selected by computer drawing or designated special antlerless only hunts.	3 deer either-sex except no more than 1 buck with a Minimum 4 points on one side or a minimum 12-inch antler spread except antlerless only during special antlerless only hunts.

**(YY) Botany Bay Plantation WMA**

Raccoons and Opossum                      Jan. 2 – Mar. 1 (Wed. – Fri. only)                      Game Zone 6 bag limits.

**WILDLIFE MANAGEMENT AREA REGULATIONS****General**

2.14 On WMA lands, hunting armadillos, coyotes and hogs at night is prohibited.

3.4 On WMAs, all firearms transported in vehicles must be unloaded and secured in a weapons case, or in the trunk of a vehicle or in a locked toolbox. On the Francis Marion Hunt Unit during deer hunts with dogs, loaded shotguns may be transported in vehicles. Any shotgun, centerfire rifle or rimfire rifle or pistol with a shell in the chamber or magazine or muzzleloader with a cap on the nipple or flintlock with powder in the flash pan is considered loaded.

10.11 Potato Creek Hatchery Waterfowl Area is closed to hunting access and fishing during the period one week prior to and two weeks after the Federal waterfowl season, except for scheduled waterfowl hunts. All hunters must enter and leave the Potato Creek Hatchery Waterfowl Area through the designated public landing on secondary road 260 and complete a data card and deposit card in receptacle prior to leaving the area. Hunting hours are from 30 minutes before legal sunrise to legal sunset (including the special youth hunt). Hunters may not enter the area prior to 3:00 a.m. on hunt days. No airboats are allowed for hunting or fishing and no hunting from secondary road 260.

**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 extend through January 1, it is necessary to re-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.

**52 EMERGENCY REGULATIONS**

**Filed: November 18, 2010 2:25pm**

Document No. 4165  
**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

**Emergency Situation:**

This emergency regulation amends and supersedes South Carolina Department of Natural Resources Regulation Number 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 Category II waterfowl areas are on designated days it is necessary to file this regulation as emergency in order to implement special mobility impaired waterfowl hunts on one Category II waterfowl area.

**Text:**

123-40. Wildlife Management Area Regulations.

1.1 The following regulation amends South Carolina Department of Natural Resources regulation Number 123-40.

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:

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
Tyger River	Sat. AM only during regular season. Except for special mobility impaired hunts.	Federal Limits

**Statement of Need and Reasonableness:**

Periodically, additional special hunts are instituted through the Wildlife Management Area Program. Since existing regulations specify seasons, it is necessary to file regulations to allow special hunts on specific

properties. Because these special hunts will occur in November, it is necessary to file this regulation as emergency so it will 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.

## 54 FINAL REGULATIONS

Document No. 4151  
**CLEMSON UNIVERSITY**  
**STATE LIVESTOCK-POULTRY HEALTH COMMISSION**  
CHAPTER 27  
Statutory authority: 1976 Code Sections 47-4-30 and 47-17-130

27-1023. State Meat Inspection Regulation

### **Synopsis:**

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21 USCA 661, Section 301) which established Federal-State Cooperative Meat Inspection Programs and the Humane Methods of Slaughter Act of 1978. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations "at least equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 27, 2010.

### **Instructions:**

Replace R.27-1023 with the following amendment.

### **Text:**

27-1023. State Meat Inspection Regulation.

#### A. Definitions.

1. Commission means the State Livestock-Poultry Health Commission, Clemson University.
2. Director means the Director, Livestock-Poultry Health Programs, Clemson University.
3. Custom Processor means the custom preparation by any person of carcasses, parts thereof, meat or meat food products derived from the slaughter by any individual of cattle, sheep, swine or goats of his own raising or from game animals, delivered by the owner thereof for such custom preparation and transportation in commerce of such custom prepared article, exclusively for the use in the household by the owner and members of the owners household and the owners non-paying guests and employees in an establishment permitted by the State Meat Inspection Department for that purpose.

#### B. Permit required; fee; application; refusal, revocation or suspension.

1. Custom processors shall secure a permit from the Commission.
2. The permit fee is twenty-five dollars (\$25.00) annually or for part of a year. The permit year is July 1 to June 30. The fee must be retained by the Commission. The Commission by regulation may increase the fee to not more than fifty dollars (\$50.00).
3. The Commission, for cause, may refuse to grant a permit, may revoke or modify a permit, or assess a civil penalty in accordance with Section 47-4-130, South Carolina Code of Laws (1976) as amended.

#### C. Adoption of Federal Meat Inspection Regulations.

The United States Department of Agriculture, Food Safety and Inspection Service, Meat Inspection Regulations, 9 CFR, Chapter III, Subchapter A, Parts 300-321, 325, 329, 332, 335, 352 and 354, and Subchapter E, Parts 416-417, 424, 430, 441, 442 and 500 and all changes thereto in effect as of January 1, 2011 are hereby adopted as the State Meat Inspection Regulations, with exceptions as noted below.

## D. Exceptions to the Federal Meat Inspection Regulations.

1. Subchapter A, Part 303 - Exemptions, Section 303.1(a)(2). The provisions of this section related to custom slaughter of livestock do not apply. Custom slaughtering is not a specified exemption in the State Meat and Meat Foods Regulations and Inspection Law of 1967.

2. Subchapter A, Part 307, Section 307.5(a) - Overtime Inspection Service. Fees and charges for overtime inspection service will be established, as required, by the Commission.

3. Subchapter A, Part 307, Section 307.5(b) - Holiday Inspection Service. State holidays as designated by the State Budget and Control Board will be utilized by the state inspection program.

4. Subchapter A, Part 312 - Official Marks, Devices and Certificates. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.

5. Subchapter A, Part 352, Section 352.5 - Holiday and Overtime Inspection Services. Fees and charges for overtime and state holiday inspection services will be established, as required by the Commission.

6. Subchapter A, Part 352, Section 352.7 - Marking Inspected Products. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.

E. In addition to temporary suspension in whole or in part of inspection services, as provided for in this regulation, the Director may, when he determines that the operator of any official establishment or any subsidiary therein, acting within the scope of his office, employment or agency, has threatened to forcible assault or has forcibly assaulted, intimidated, harassed or interfered with any program employees in or on account of his official duties under the law, assess a civil penalty in accordance with Section 47-4-130(b), S.C. Code of Laws, (1976) as amended.

F. The complete text of these regulations is available for review at the Meat-Poultry Inspection Department, Livestock-Poultry Health Programs, Clemson University.

Document No. 4150

**CLEMSON UNIVERSITY**

**STATE LIVESTOCK-POULTRY HEALTH COMMISSION**

CHAPTER 27

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

27-1022. State Poultry Products Inspection Regulation

**Synopsis:**

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

The Notice of Drafting was published in the *State Register* on August 27, 2010.

**Instructions:**

Replace R.27-1022 with the following amendment.

## 56 FINAL REGULATIONS

### Text:

27-1022. State Poultry Products Inspection Regulation.

#### A. Definitions.

1. Commission means the State Livestock-Poultry Health Commission, Clemson University.
2. Director means the Director, Livestock-Poultry Health Programs, Clemson University.

#### B. Adoption of Federal Poultry Products Regulations.

The United States Department of Agriculture, Food Safety and Inspection Service, Poultry Products Inspection Regulations, 9 CFR, Chapter III, Subchapter A, Parts 362 and 381 and Subchapter E. Parts 416-417, 424, 430, 441, 442 and 500 and all changes thereto in effect as of January 1, 2011 are hereby adopted as the State Poultry Inspection Regulations, with exception as noted below.

#### C. Exceptions to the Federal Poultry Products Inspection Regulations.

(1) Subchapter A, Part 362, Voluntary Poultry Inspection Regulations, Section 362.5. Fees and charges for voluntary inspection services will be established, as required, by the Commission.

(2) Subchapter A, Part 381, Subpart G, Facilities for Inspection, Section 381.38. State holidays as designated by the State Budget and Control Board will be utilized by the state inspection program.

(3) Subchapter A, Part 381, Subpart G, Facilities for Inspection, Section 381.39. Fees and charges for overtime and holiday inspection services will be established, as required, by the Commission.

(4) Subchapter A, Part 381, Subpart M, Official Marks, Devices and Certificates. Official state marks, devices and certificates of inspection will be utilized by the state inspection program.

D. The complete text of these regulations is available for review at the Meat-Poultry Inspection Department, Livestock-Poultry Health Programs, Clemson University.