

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2010 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	1/8	2/12	3/12	4/9	5/14	6/11	7/9	8/13	9/10	10/8	11/12	12/10
Publishing Date	1/22	2/26	3/26	4/23	5/28	6/25	7/23	8/27	9/24	10/22	11/26	12/24

REPRODUCING OFFICIAL DOCUMENTS

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

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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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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>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4043	SR34-2		Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	1/13/10	Workers' Compensation Commission
4054			Registration of Immigration Assistance Services	2/22/10	LLR
4055			Illegal Aliens and Private Employment	2/22/10	LLR
4058			Insurance Holding Company Systems	3/08/10	Department of Insurance
4059			South Carolina Reinsurance Facility Recoupment	3/08/10	Department of Insurance
4060			Life Insurance Disclosure	3/08/10	Department of Insurance
4061			Valuation of Investments	3/08/10	Department of Insurance
4068			Funeral Service Practice Act	4/08/10	Board of Funeral Service
4066			Long Term Care Insurance	4/21/10	Department of Insurance
4067			Law Enforcement Officer and E-911 Officer Training & Certification	4/28/10	S.C. Criminal Justice Academy
4072			Central Fill Pharmacies	5/04/10	Board of Pharmacy
4063			Workers' Compensation Insurance and Use of Leased Vehicles	5/12/10	Public Service Commission
4075			Requirements of Licensure in the Field of Cosmetology	5/12/10	Board of Cosmetology
4070			Air Pollution Control Regulations and Standards	5/12/10	Department of Health and Envir Control
4083			Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities	5/12/10	Department of Insurance
4088			Annuity and Deposit Fund Disclosure	5/12/10	Department of Insurance
4080			Hazardous Waste Management	5/12/10	Department of Health and Envir Control
4081			Athletic Trainers	5/12/10	Department of Health and Envir Control
4069			Species or Subspecies of Non-game Wildlife	5/12/10	Department of Natural Resources
4085			Air Pollution Control Regulations and Standards	5/12/10	Department of Health and Envir Control
4090			Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	5/12/10	Department of Natural Resources
4109			Child Support Guidelines	5/12/10	Department of Social Services
4091			Seeds	5/12/10	Department of Agriculture
4073			Definitions for Charter Bus, Equipped to Carry and Passenger	5/12/10	Public Service Commission
4078			Uniform Real Property Recording Act	5/12/10	Secretary of State
4105			Citrus Greening Quarantine	5/12/10	Clemson University-State Crop Pest Comm.
4106			Phytophthora ramorum Quarantine	5/12/10	Clemson University-State Crop Pest Comm.
4097			Continuing Insurance Education	5/12/10	Department of Insurance
4098			Annual Audited Financial Reporting Regulation	5/12/10	Department of Insurance
4099			Dates for Payment of Annual License Fees/Appointment Fee for Insurance Agents Brokers, Adjusters, Agencies, and Motor Vehicle Damage Appraisers	5/12/10	Department of Insurance
4101			Practice of Architecture; Increased Use of Electronic Documents	5/21/10	Board of Architectural Examiners
4103			Apprentice Salespersons	5/21/10	Manufactured Housing Board
4100			Firm Registration, Continuing Professional Education and Professional Standards	5/21/10	Board of Accountancy
4102			Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	5/26/10	LLR - Office of State Fire Marshal
4114			Inspectors - Registration, Fees and Disciplinary Procedure	5/26/10	Building Codes Council
4110			Regulation of Real Property Owned and Leased by the Dept.	5/26/10	Department of Natural Resources
4107			Infectious Waste Management Regulations	5/28/10	Department of Health and Envir Control
4108			Standards for Licensing Community Residential Care Facilities	5/28/10	Department of Health and Envir Control
4116			South Carolina Virtual School Program	5/28/10	State Board of Education
4117			Requirements for Additional Areas of Certification	5/28/10	State Board of Education
4121			Agents and Agency Licenses	6/01/10	Department of Insurance
Committee Requested Withdrawal					
4022			Riverbanks Parks Commission	Tolled	Riverbanks Parks Commission
Resolution Introduced to Disapprove					
4014			Environmental Protection Fees	Tolled	Department of Health and Envir Control
4015			Environmental Protection Fees	Tolled	Department of Health and Envir Control

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>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4043	Amend and Add Regulations to Chapter 67 to Reflect Changes in Title 42 Necessitated by the Approval of Act 111 on June 25, 2007	Labor, Commerce and Industry	Judiciary
4054	Registration of Immigration Assistance Services	Labor, Commerce and Industry	Labor, Commerce and Industry
4055	Illegal Aliens and Private Employment	Judiciary	Labor, Commerce and Industry
4058	Insurance Holding Company Systems	Labor, Commerce and Industry	Banking and Insurance
4059	South Carolina Reinsurance Facility Recoupment	Labor, Commerce and Industry	Banking and Insurance
4060	Life Insurance Disclosure	Labor, Commerce and Industry	Banking and Insurance
4061	Valuation of Investments	Labor, Commerce and Industry	Banking and Insurance
4068	Funeral Service Practice Act	Labor, Commerce and Industry	Judiciary
4066	Long Term Care Insurance	Labor, Commerce and Industry	Banking and Insurance
4067	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	Judiciary
4072	Central Fill Pharmacies	Medical, Military, Pub & Mun Affairs	Medical Affairs
4063	Workers' Compensation Insurance and Use of Leased Vehicles	Labor, Commerce and Industry	Judiciary
4075	Requirements of Licensure in the Field of Cosmetology	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4070	Air Pollution Control Regulations and Standards	Agriculture and Natural Resources	Medical Affairs
4083	Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities	Labor, Commerce and Industry	Banking and Insurance
4088	Annuity and Deposit Fund Disclosure	Labor, Commerce and Industry	Banking and Insurance
4080	Hazardous Waste Management	Agriculture and Natural Resources	Medical Affairs
4081	Athletic Trainers	Medical, Military, Pub & Mun Affairs	Medical Affairs
4069	Species or Subspecies of Non-game Wildlife	Agriculture and Natural Resources	Fish, Game and Forestry
4085	Air Pollution Control Regulations and Standards	Agriculture and Natural Resources	Medical Affairs
4090	Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	Agriculture and Natural Resources	Fish, Game and Forestry
4109	Child Support Guidelines	Judiciary	Judiciary
4091	Seeds	Agriculture and Natural Resources	Agriculture and Natural Resources
4073	Definitions for Charter Bus, Equipped to Carry and Passenger	Labor, Commerce and Industry	Judiciary
4078	Uniform Real Property Recording Act	Judiciary	Judiciary
4105	Citrus Greening Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4106	Phytophthora ramorum Quarantine	Agriculture and Natural Resources	Agriculture and Natural Resources
4097	Continuing Insurance Education	Labor, Commerce and Industry	Banking and Insurance
4098	Annual Audited Financial Reporting Regulation	Labor, Commerce and Industry	Banking and Insurance
4099	Dates for Payment of Annual License Fees/Appointment Fees for Insurance Agents, Brokers, Adjusters, Agencies, and Motor Vehicle Damage Appraisers	Labor, Commerce and Industry	Banking and Insurance
4101	Practice of Architecture; Increased Use of Electronic Documents	Labor, Commerce and Industry	Labor, Commerce and Industry
4103	Apprentice Salespersons	Labor, Commerce and Industry	Labor, Commerce and Industry
4100	Firm Registration, Continuing Professional Education and Professional Standards	Labor, Commerce and Industry	Labor, Commerce and Industry
4102	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	Labor, Commerce and Industry	Labor, Commerce and Industry
4114	Inspectors - Registration, Fees and Disciplinary Procedure	Labor, Commerce and Industry	Labor, Commerce and Industry
4110	Regulation of Real Property Owned and Leased by the Dept.	Agriculture and Natural Resources	Fish, Game and Forestry
4107	Infectious Waste Management Regulations	Agriculture and Natural Resources	Medical Affairs
4108	Standards for Licensing Community Residential Care Facilities	Medical, Military, Pub & Mun Affairs	Medical Affairs
4116	South Carolina Virtual School Program	Education	Education
4117	Requirements for Additional Areas of Certification	Education	Education
4121	Agents and Agency Licenses	Labor, Commerce and Industry	Banking and Insurance
Committee Requested Withdrawal			
4022	Riverbanks Parks Commission	Agriculture and Natural Resources	Fish, Game and Forestry
Resolution Introduced to Disapprove			
4014	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs
4015	Environmental Protection Fees	Agriculture and Natural Resources	Medical Affairs

Executive Order No. 2010-02

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, Executive Order 2010-01 declared a State of Emergency from January 6, 2010 until January 20, 2006 for the limited purpose of suspending the federal rules and regulations that limit the hours operators of commercial vehicles may drive to ensure the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, and LPG throughout South Carolina; and

WHEREAS, an extension of the suspension of federal rules and regulations limiting the hours operators of commercial motor vehicles may drive is needed because the supply of fuel oil, diesel oil, gasoline, kerosene, and LPG throughout South Carolina has not adequately caught up to the demand for such fuel due to prolonged cold temperatures.

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 15 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.

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 20th DAY OF JANUARY, 2010.**

MARK SANFORD
Governor

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Executive Order No. 2010-03

WHEREAS, South Carolina continues to identify more clearly the critical importance of strengthening resources for programs designed to serve the needs of our citizens with disabilities; and

WHEREAS, the State must make the most effective use of its resources to meet such needs by continuing to develop, implement, and evaluate realistic policies, plans, and programs; and

WHEREAS, the well-being of citizens of South Carolina with substantial disabilities is a priority and responsibility of State government.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State, I hereby reestablish the South Carolina Developmental Disabilities Council, which is the State's forum for developmental disabilities matters and will advocate for persons with those disabilities defined herein.

The Council is also established in accordance with the Federal Developmental Disabilities Act of 2000 (the Act) (Public Law 106-402). The Act defines the term developmental disability as a severe, chronic disability of a person which is attributable to a mental or physical impairment or combination of mental and physical impairments; is manifested before the person attains age twenty-two; is likely to continue indefinitely; results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic sufficiency; and reflects the person's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

The Council shall at all times include in its membership representatives of the principal State governmental agencies that administer and/or provide services to persons with developmental disabilities.

The Governor hereby appoints to the Council the directors of the following public agencies and programs:

South Carolina Department of Education
South Carolina Department of Health and Environmental Control
South Carolina Department of Mental Health
South Carolina Department of Disabilities and Special Needs
South Carolina Vocational Rehabilitation Department
South Carolina Lt. Governor's Office on Aging
South Carolina Department of Health and Human Services

The directors referenced above may designate representatives to act on behalf of their respective agencies and programs in the Council's deliberations.

Additionally, in order to provide a continuum to its advocacy efforts, the Council shall include representation of non-governmental agencies and organizations concerned with the developmentally disabled. The chief administrative officer or his/her designated representative who acts on behalf of the organization in any deliberations of the Council shall represent these private organizations and programs.

No less than sixty percent of the total Council membership shall consist of consumer representatives who are not officers or have ownership or controlling interest of any entity, or who are not employees of any state agency that receives funds and provides services under the Developmental Disabilities Act. Of the consumer members, at least one-third shall be persons with developmental disabilities; one-third shall be

immediate relatives or guardians of persons who have mentally impairing developmental disabilities with at least one of these having a family member in an institution; and the remaining one-third shall be representatives from any developmental disabilities consumer category. For purposes of appointment, consumer members may not be providers of services.

The consumer members of the Council shall be appointed by the Governor from the residents of the state to serve at his pleasure on a rotating basis. Terms of office shall be four years and no member shall serve more than two consecutive terms.

The active consumer members of the existing Council shall select the Chairperson. The Council membership shall elect all other officers of the Council and election shall not be limited to consumers.

The Council Chairperson, with the advice and consent of the Executive Committee, may appoint representatives of other agencies and organizations or individuals who deal with persons with developmental disabilities to serve in an *ex officio*, non-voting capacity to complement the Council's efforts.

All members of the Council serve at the pleasure of the Governor, who may remove members at-will.

The Council shall promulgate by-laws for the orderly conduct of its business, and in discharging its responsibilities, the Council shall:

- Develop jointly with the designated administering agency the Developmental Disabilities State Plan and approve the State Plan for the provision of services for persons with developmental disabilities.
- Monitor, review, and evaluate the implementation of such state plan and the state program.
- Formulate its program and recommendations in accordance with the Act upon review and comment of all state plans and other activities in the State, which relate to the developmentally disabled population.
- Submit to the Secretary of the United States Department of Health and Human Services, through the Governor, such periodic reports on its activities as may reasonably be requested, and keep such records and afford access thereto as the Secretary finds necessary to verify such reports.

In support of the Council, the Governor shall house the Council staff within the Office of the Governor and shall provide, as appropriate, the support of the Office of Executive Policy and Programs. State agencies to administer the state programs shall be designated by the Governor and described in the state plan.

This Executive Order shall take effect immediately, and shall supersede Executive Order 2001-07.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 21st DAY OF JANUARY, 2010.**

**MARK SANFORD
Governor**

6 EXECUTIVE ORDERS

Executive Order No. 2010-04

WHEREAS, in order to ensure the uninterrupted supply of fuel oil, diesel oil, gasoline, kerosene, and LPG throughout South Carolina, Executive Order 2010-02 established a state of emergency for South Carolina for the limited purpose of suspending the federal rules and regulations that limit the hours operators of commercial vehicles may drive; and

WHEREAS, the supply of fuel oil, diesel oil, gasoline, kerosene, and LPG throughout South Carolina has been replenished to the point where a state of emergency is no longer needed to ensure sufficient access to these fuels by the suppliers and the public.

NOW, THEREFORE, by virtue of the power and authority vested in me as Governor, pursuant to the Constitution and Statutes of the State of South Carolina, I declare that a state of emergency no longer exists and hereby declare that Executive Order 2010-02 is, effective at midnight tonight, cancelled, rescinded, and declared null and void.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 29th DAY OF JANUARY 2010.**

MARK SANFORD
Governor

Executive Order No. 2010-05

WHEREAS, a report conducted by the Legislative Audit Council in 2008 revealed ongoing problems with the management and control of the South Carolina Commission on Disabilities and Special Needs (Commission); and

WHEREAS, as a result of the issues revealed in the Legislative Audit Council report, I appointed four new members to the Commission in an effort to instill new and effective leadership and management; and

WHEREAS, despite the appointment of new members on the Commission, the Commission remains divided and uncooperative; and

WHEREAS, in the interest of better serving the disabled persons in the State, there needs to be a change in the makeup of the Commission; and

WHEREAS, Sections 1-3-240(B) and 44-20-210(A) of the South Carolina Code of Laws give the Governor the authority to remove, at his discretion, members of the Commission.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Laws of the State, I hereby remove Susan Lait from the Commission on Disabilities and Special Needs.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 29th DAY OF JANUARY, 2010.**

**MARK SANFORD
Governor**

Executive Order No. 2010-06

WHEREAS, the future success of South Carolina's children correlates with early learning, which fosters optimal development; and

WHEREAS, South Carolina's quality of life and economic prosperity depend upon the presence of a well-educated work force; and

WHEREAS, positive early learning outcomes yield substantial long-term savings to taxpayers; and

WHEREAS, the South Carolina First Steps to School Readiness (First Steps) initiative was created in 1999 to "develop, promote, and assist efforts of agencies, private providers, and public and private organizations and entities, at the state level and the community level, to collaborate and cooperate in order to focus and intensify services, assure the most efficient use of all available resources, and eliminate duplication of efforts to serve the needs of young children and their families," S.C. Code Ann. § 59-152-20; and

WHEREAS, the South Carolina First Steps Board of Trustees was created to promote and ensure these ends by coordinating efforts among multiple state agencies; and

WHEREAS, the federal Improving Head Start for School Readiness Act of 2007, 42 U.S.C. § 9837b(b)(1), requires the governor of each state to designate or establish a State Advisory Council on Early Childhood Education and Care (Advisory Council) as part of a parallel federal effort to ensure coordination and collaboration within the states; and

WHEREAS, the governor is further required to designate an individual charged with coordinating the activities of the State Advisory Council.

NOW, THEREFORE, pursuant to 42 U.S.C. § 9837b(b), I designate the members of the First Steps Board of Trustees to serve as South Carolina's Advisory Council, and I designate the State Director of First Steps to coordinate the activities of the Advisory Council.

Pursuant to 42 U.S.C. § 9837b(b)(1)(D)(i), the Advisory Council shall:

(I) conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school entry, including an assessment of the availability of high-quality pre-kindergarten services for low-income children in the state;

8 EXECUTIVE ORDERS

(II) identify opportunities for, and barriers to, collaboration and coordination among federally-funded and state-funded child development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

(III) develop recommendations for increasing the overall participation of children in existing federal, state, and local child care and early childhood education programs, including outreach to underrepresented and special populations;

(IV) develop recommendations regarding the establishment of a unified data collection system for public early childhood education and development programs and services throughout the state;

(V) develop recommendations regarding statewide professional development and career advancement plans for early childhood educators in the state;

(VI) assess the capacity and effectiveness of 2- and 4-year public and private institutions of higher education in the state toward supporting the development of early childhood educators, including the extent to which such institutions have in place articulation agreements, professional development and career advancement plans, and practice or internships for students to spend time in a Head Start or pre-kindergarten program;

(VI) make recommendations for improvements in state early learning standards and undertake efforts to develop high-quality comprehensive early learning standards, as appropriate;

(VII) develop and publish, using available demographic data, an indicators-based measure of school readiness at the state and community level;

(VIII) incorporate, within its periodic statewide needs assessments required in 42 U.S.C. § 9837b, data related to the capacity and efforts of private sector providers, Head Start providers, and local school districts to serve children aged birth to four. This shall include fiscal, enrollment, and capacity data to the extent feasible; and

(IX) perform all other functions, as permitted under federal and state law, to improve coordination and delivery of early childhood education and development to children in South Carolina.

While parallel in membership, the Advisory Council shall act as a distinct entity for the purpose of fulfilling the responsibilities outlined here. Each member of the First Steps Board of Trustees (both voting and non-voting) shall be considered a voting member of the Advisory Council. First Steps Board minutes shall explicitly distinguish actions and votes of the Advisory Council, and the Advisory Council must officially adjourn prior to acting as the First Steps Board. This order shall not be interpreted as conferring voting status upon any First Steps trustee not granted this privilege under state law. Each Advisory Council member's term shall be concurrent with his/her service to the First Steps Board of Trustees.

BE IT FURTHER ORDERED THAT, to ensure adequate communication and coordination with the state's Head Start providers, the Director of the South Carolina Head Start Collaboration Office shall be seated as a voting member of the Advisory Council. To the extent possible, the migrant and tribal Head Start providers shall be represented in the work of the Advisory Council.

In order to facilitate the work of the Advisory Council, South Carolina's public agencies shall, to the extent permissible under state and federal law, assist in providing all data necessary to fulfill the Advisory Council's duties.

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

**MARK SANFORD
Governor**

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BUDGET AND CONTROL BOARD BOARD OF ECONOMIC ADVISORS

NOTICE

January 20, 2010

Frank Fusco
Executive Director
South Carolina Budget and Control Board
Office of the Executive Director
612 Wade Hampton Building
Columbia, SC 29211

Dear Frank,

We have calculated the increase in the limit on compensation for noneconomic damages on a medical malpractice claim. Pursuant to Section 15-32-220(F), the limit on civil liability for noneconomic damages on a medical malpractice claim is adjusted each fiscal year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year 2004. The 2004 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2009, the Index published by the Bureau of Labor Statistics, *Monthly Labor Review*, Table 38, "Consumer Price Index for All Urban Consumers", increased by 13.5% from a value of 190.3 in December 2004 to 215.949 in December 2009. Therefore, the limit not to exceed \$350,000 would increase to \$397,175 against a single health care provider and a health care institution for each claimant for civil liability for noneconomic damages on medical malpractice claims when final judgment is rendered. Also, the limit not to exceed \$1,050,000 would increase to \$1,191,520 for all health care providers and all health care institutions for each claimant for civil liability for noneconomic damages on medical malpractice claims. The adjusted limitations on compensation for noneconomic damages become effective upon publication in the *State Register* pursuant to Section 1-23-40(2).

If I can be of any further assistance, please let me know.

Sincerely,

WCG/rwm

William C. Gillespie, Ph.D.
Chief Economist

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

ATTAINMENT PLAN FOR THE RFATS MPO, S. C.
8-HOUR OZONE NAAQS NONATTAINMENT AREA
CHAPTER 61

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

South Carolina Air Quality Implementation Plan:

The Department of Health and Environmental Control (Department) proposes to amend the the South Carolina Air Quality Implementation Plan (SIP) in association with the Rock Hill Fort Mill Area Transportation Study (RFATS) Metropolitan Planning Organization (MPO) 8-hour ozone nonattainment area. Interested persons are invited to present their views in writing to Andrew O. Hollis; Division of Air Planning, Development and Outreach; Bureau of Air Quality; 2600 Bull Street; Columbia, SC 29201. Comments may also be submitted via email to hollisao@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on March 29, 2010, the close of the drafting comment period. The Department is also providing the public with the opportunity to request a public hearing on the issue. As such, a public hearing has been planned for April 5, 2010, at 10 a.m. in the Wallace Room (3141), 2600 Bull Street, Columbia, South Carolina. The public is invited to attend. However, pursuant to 40 CFR 51.102, if no request for a public hearing is received by the close of the comment period (March 29, 2010), the hearing will be cancelled. If a public hearing has been cancelled, the Department will notify the public at least one week prior to the scheduled hearing via the "Public Involvement" or "Scheduled Public Hearings" link on the Regulation Development webpage at <http://www.scdhec.gov/environment/baq/regulatory.aspx>. Interested parties are also encouraged to contact Andrew Hollis at (803)-898-4196 for more information or to determine whether a public hearing has been cancelled. If no adverse comments and no request for a public hearing have been received by the close of the comment period, the SIP revision is effective on the date of publication of this notice in the *State Register*.

Synopsis:

In a *Federal Register* (FR) notice published on July 18, 1997 (62 FR 38856), the United States Environmental Protection Agency (EPA) promulgated amendments to the National Ambient Air Quality Standards (NAAQS) for ozone. Based on its review of available scientific evidence linking exposures to ambient ozone to adverse health and welfare effects at levels allowed by the 1-hour ozone standard, the EPA replaced the 1-hour primary standard with an 8-hour standard at a level of 0.08 ppm based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The 1-hour secondary standard was also replaced by an 8-hour secondary standard identical to the 8-hour primary standard.

Because of monitor readings in North Carolina indicating violation of the 1997 ozone standard, on April 30, 2004 (69 FR 23858), the EPA designated and classified that portion of York County, South Carolina within the RFATS MPO as a moderate nonattainment area for the 8-hour ozone NAAQS as part of the Charlotte-Gastonia-Rock Hill nonattainment area. As a result of this designation, the Department was required to amend the SIP, in accordance with the requirements of Title I, Part D - Plan Requirements for Nonattainment Areas, Subpart 1, Section 172, and Subpart 2, Section 182 of the *Clean Air Act* (CAA), as amended (42 U.S.C. 7401, et seq.).

On August 31, 2007, the Department submitted its required attainment plan for the RFATS MPO 8-hour ozone NAAQS nonattainment area.

On November 17, 2008, the EPA sent letters to North Carolina and South Carolina, explaining its intention to propose disapproval of the attainment demonstrations for the Charlotte-Gastonia-Rock Hill area for the 1997 8-hour ozone standard by January 9, 2009. Within these letters, the EPA indicated this decision was based on its

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belief that the area was unlikely to attain the 1997 ozone standard by June 15, 2010, or meet the requirements for a one-year extension of the attainment date. As a result, the Department withdrew its attainment demonstration on December 22, 2008, and committed to re-submit an amended attainment demonstration by November 30, 2009. EPA then made a finding of failure to submit State Implementation Plan revisions required for the 1997 8-hour ozone NAAQS to South Carolina and North Carolina for the Charlotte-Gastonia-Rock Hill nonattainment area [*Federal Register* notice published on May 8, 2009 (74 FR 21550)].

EPA presented as an option the resubmittal of the original attainment demonstration submitted in 2007 and then supplement this demonstration with additional information including the 2011 modeling and actual air quality data from 2009. The Department chose this option and we are now placing these documents on public notice.

In response to the Department's decision, the EPA is requiring additional information to include: nitrogen oxide and volatile organic compound (VOC) motor vehicle emissions budgets (MVEB) (a NO_x budget has already been submitted in the previous attainment demonstration), additional modeling showing 1997 ozone standard compliance in the 2011 ozone season, updates to the air quality data analysis which include the 2009 ambient data, a 2008 VOC MVEB for the Reasonable Further Progress (RFP) appendix, and updated information on emissions and controls that may affect air quality during the 2010 ozone season. In conjunction with these additions the Department will also submit an update to the 2009 NO_x MVEB.

These draft submittals and further information is available via the Department's website at http://www.scdhec.gov/environment/baq/Metrolina-SC_Nonattainment/.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

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

Renovation for the replacement of the existing extremity Magnetic Resonance Imaging (MRI) unit with a 1.5 Tesla MRI unit

Carolina Musculoskeletal Institute, P.A.

Aiken, South Carolina

Project Cost: \$1,195,200

Affecting Beaufort County

Construction of a psychiatric hospital to include twenty-two (22) psychiatric beds

Beacon Harbor Geriatric Psychiatric Hospital

Bluffton, South Carolina

Project Cost: \$9,079,397

Affecting Florence County

Construction of a new patient tower located between the Main Tower and the Pavilion Tower; upfit of the eighth (8th) floor of the Pavilion Tower to be used for inpatient rooms and support space; and renovation of the Main Tower. There will be no change in the licensed bed capacity

McLeod Regional Medical Center
 Florence, South Carolina
 Project Cost: \$108,337,665

Affecting Greenville County

Addition of a daVinci Si Surgical System to be located in the existing operating room (OR) suites at Greenville Memorial Medical Center
 Greenville Memorial Medical Center
 Greenville, South Carolina
 Project Cost: \$2,564,731

Establishment of an outpatient Narcotic Treatment Methadone program
 Woodlands Treatment Center, LLC
 Greenville, South Carolina
 Project Cost: \$65,331

Affecting Horry County

Conversion of twenty-four (24) hospice house beds to nursing home beds for a total of ninety-six (96) nursing home beds that do not participate in the Medicaid (Title XIX) Program
 Agape Rehabilitation of Conway
 Conway, South Carolina
 Project Cost: \$0

Conversion of one (1) procedure room to one (1) operating room for a total of three (3) operating rooms
 Carolina Bone and Joint Surgery Center, LLC
 Myrtle Beach, South Carolina
 Project Cost: \$379,131

In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning February 26, 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. For further information call (803) 545-4200.

Affecting Beaufort County

Construction of a one hundred twenty (120) bed nursing home that does not participate in the Medicaid (Title XIX) Program
 Sunnyside Healthcare Commons of Hilton Head, LLC d/b/a Beacon Harbor Subacute Care
 Bluffton, South Carolina
 Project Cost: \$25,898,246

Affecting Florence County

Replacement of a single-slice Computed Tomography (CT) scanner with a sixteen (16) slice Computed Tomography (CT) scanner located in the Radiation Oncology Department on the first floor of the McLeod Tower
 McLeod Regional Medical Center
 Florence, South Carolina
 Project Cost: \$769,300

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DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

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

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

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than March 28, 2010 to:

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

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

Class I

Spero Corporation
Contact: James S. Johnson, PE
119 SE Main St.
Simpsonville, SC 29681

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

NOTICE OF GENERAL PUBLIC INTEREST

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

1. National Fire Protection Association 20, Standard for the Installation of Stationary Pumps for Fire Protection, 2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Code of Laws Section 40-10-240
South Carolina Regulations 71-8300.2(G)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

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

NOTICE OF GENERAL PUBLIC INTEREST

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

1. National Fire Protection Association 24, Standard for the Installation of Private Fire Service Mains and Their Appurtenances, 2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Code of Laws Section 40-10-240
South Carolina Regulations 71-8300.2(G)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

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

NOTICE OF GENERAL PUBLIC INTEREST

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

1. National Fire Protection Association 72, National Fire Alarm Code, 2010 Edition
2. The original promulgating authority for this code is:
National Fire Protection Association
1 Batterymarch Park
Quincy, Massachusetts 02269
3. This code is referenced by:
South Carolina Code of Laws, Section 23-9-60
South Carolina Regulations 71-8300.2 (O)

The Office of State Fire Marshal specifically requested comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina and received none. Therefore, the Office of State Fire Marshal will promulgate this latest edition without amendment.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control is proposing to amend Regulation 61-62, Air Pollution Control Regulations and Standards and the South Carolina Air Quality Implementation Plan (State Implementation Plan or SIP). Interested persons are invited to present their views concerning these amendments in writing to Alan Hancock, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or via electronic mail at hancocam@dhc.sc.gov. To be considered, comments must be received by March 29, 2010, the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR Parts 51, 60, 61, 63 and 72 throughout each calendar year. Recent federal amendments include clarification, guidance and technical amendments regarding New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and NESHAP for Source Categories.

The Department proposes to amend Regulation 61-62.1, Definitions and General Requirements, to incorporate amendments to the definition of Volatile Organic Compounds (VOCs) promulgated by the EPA on January 12, 2009. The Department also proposes to amend Regulations 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; 61-62.61, National Emission Standards for Hazardous Air Pollutants; 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and 61.62.72, Acid Rain, to incorporate by reference recent federal amendments promulgated during the period from January 1, 2009, through December 31, 2009.

The Department may also propose typographical corrections and clarifications to Regulation 61-62 as necessary.

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

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to make revisions to Regulation 61-62, Air Pollution Control Regulations and Standards; Regulation 61-86.1, Standards of Performance for Asbestos Projects; and the South Carolina Air Quality Implementation Plan (SIP). This notice is being published to renew and supplement the revisions previously established by the September 26, 2008, Notice of Drafting published in Volume 32, Issue 9 of the *South Carolina State Register*. Interested persons are invited to present their views in writing to Andrew Hollis, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. Comments may also be submitted via email to hollisao@dhc.sc.gov. To be considered, written comments must be received by March 29, 2010, the close of the drafting comment period.

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Synopsis:

The Department proposes to amend Regulation 61-62 and the SIP. In particular the Department will amend R.61-62.1, Definitions and General Requirements, to update and correct definitions and permit requirements; R. 61-62.5, Standard 1, Emissions From Fuel Burning Operations, to exclude the requirement for natural gas fired units to maintain a log of periods of startup and shutdown; R. 61-62.5, Standard 2, Ambient Air Quality Standards, to remove the standard for Total Suspended Particle (TSP) and update exceedance limitation for the carbon monoxide (CO) standard; R.61-62.5, Standard No. 4, Emissions from Process Industries, to modify the regulatory strategy for cotton gins; and clarify the definition for major source threshold throughout 61-62. The Department also proposes to delete R. 61-62.5, Standard 6, Alternative Emission Limitation Options (“Bubble”); and update the entirety of R. 61-62 to correct typographical errors, provide clarification, delete or update obsolete requirements.

The Department also proposes to amend Regulation 61-86.1, Standards of Performance for Asbestos Projects, to revise Section XX.A.4 and add Section XX.J.3 to change the required frequency of building inspections for industrial manufacturing and electrical generating facilities from 3 years to 5 years.

Pursuant to S.C. Code Section, 1-23-120(H)(1), these proposed amendments are not mandated by federal law and therefore, will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to revise Regulation 61-9, Water Pollution Control Permits. Interested persons may submit their comments in writing to Jeff deBessonnet, Water Facilities Permitting Division, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. For questions, call 803-898-4157 or email debessjp@dhec.sc.gov. To be considered, all comments must be received in writing no later than March 29, 2010, the close of the drafting period.

Synopsis:

The Department intends to make changes to the regulation to adopt Federal Clean Water Act rules issued by the United States Environmental Protection Agency (EPA). EPA adopted regulations related to 316(b) of the Clean Water Act (40 CFR 125.80-89) on December 18, 2001. These phase one regulations address cooling water intakes at new facilities (power companies and manufacturing companies) with cooling water intakes greater than 2 MGD.

Proposed revisions will not require legislative review.

PUBLIC SERVICE COMMISSION
CHAPTER 103
Statutory Authority: 1976 Code Section 58-3-140

Notice of Drafting:

In Order No. 2009-770, the Public Service Commission granted partial waivers of 26 S.C. Code Ann. Regs. 103-331 and 103-336 to all investor-owned electrical utilities operating in South Carolina for non-residential customers. The current language of Regulations 103-331 and 103-336 do not reflect these partial waivers. Hence, to capture these waivers as granted in Commission Order No. 2009-770, the Commission now seeks to amend Regulations 103-331 and 103-336 to reflect these waivers. 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 2010-63-E. To be considered, comments must be received no later than 4:45 p.m. on April 1, 2010.

Synopsis:

Regulation 103-331 governs customer deposits. Section 3 of Regulation 103-331 states that an electrical utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills if the customer has no deposit and presently is delinquent in payments, i.e., has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears in the past twenty-four months. Regulation 103-336 provides that a deposit shall be refunded completely with interest after two years unless the customer has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears, in the past twenty-four months.

On September 17, 2009, the Commission conducted a hearing on the partial waivers of Regulations 103-331 and 103-336. During this hearing, the Commission heard testimony from a utility witness who stated that although a non-residential customer may be paying its electric bill on a regular basis, its financial condition with other customers or suppliers may be rapidly deteriorating and bankruptcy may be imminent. Further, for these customers, no charges for electric service are made until after the electricity already has been used, and the customer continues to use electricity until or after that bill becomes past due. The utility companies therefore expressed a need for the ability to request a deposit from such non-delinquent non-residential customers, or for similar relief, and to retain the deposit longer than the two-year period provided for in Regulation 103-336, if necessary. The Commission approved such relief in Order No. 2009-770.

Additionally, in Order No. 2009-770, the Commission found that "providing the State's utilities with the tools to secure customer accounts when a customer is in financial distress benefits the utilities' general body of ratepayers." Further, the Commission found that Regulations 103-331 and 103-336 should be amended to reflect the non-residential partial waivers granted in Order No. 2009-770.

20 PROPOSED REGULATIONS

Document No. 4125
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 20 U.S.C. § 1400 et seq. (2004)

43–243. Special Education, Education of Students with Disabilities

Preamble:

The State Board of Education proposes to amend R.43-243 to align state rules, regulations, and policies relating to the education of children with disabilities to the purposes and requirements of the Individuals with Disabilities Education Improvement Act of 2004 regulation 34 CFR Parts 300 and 301 as amended August 28, 2009. This regulation will amend current regulation 43-243.

Section-by-Section Discussion

Amendment:

Section I(B)(6)	Added language required by the federal amendment regarding parent revocation of consent
Section II(C)(2)	Deleted language related to an amended Proviso
Section II(O)(8)	Added language required by the federal amendment regarding positive efforts to employ and advance qualified individuals with disabilities
Section III(17)	Added language on fiscal sanctions & renumbered (17)-(24) as (18)-(25)
Section IV(A)(1)(b)&(d)	Added language required by the federal amendment regarding parent revocation of consent
Section V(13)(a)	Added language required by the federal amendment regarding non-attorney representation
Section VI(A)(1)(a)&(e)	Added language required by the federal amendment regarding annual determinations, enforcement, and correction of noncompliance
Section VI(A)(3)(b)(1)	Added language required by the federal amendment regarding public reporting
Section VI(A)(7)	Added language required by the federal amendment regarding public reporting
Section VI(A)(11)-(28)	Designated as (B) and renumbered as (1) through (18) In (17) added language to refer to previous section
Section VII(A)(6)	Added language required by the federal amendment regarding subgrants to local education agencies
Section VIII(12)-(14)	Added language required by the federal amendment regarding subgrants to local education agencies

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 April 14, 2010 1:30 p.m. at the Rutledge Building, State 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 Ms. Marlene Metts, Director, Office of Exceptional Children, Division of Standards and Learning, State Department of Education, 1429 Senate Street, Rutledge Building, Room 808, Columbia, South Carolina 29201. Comments must be received no later than 5:00 p.m. on March 28, 2010. Comments received by the deadline 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:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF THE REGULATION: R.43–243, Education of Children with Disabilities.

Purpose: 43–243, the Education of Children with Disabilities, is being amended in order to align state rules, regulations, and policies relating to the education of children with disabilities to the purposes and requirements of the IDEA regulation amendment.

Legal Authority: The Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. § 1400 *et seq.* (2004).

Plans for Implementation: The amended regulation will be posted on the State Department of Education’s Web site for review and comment. The regulation will take effect upon approval and publication in the *State Register*.

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

The IDEA regulation requires states to ensure that all children with disabilities between the ages of three and twenty-one, inclusive, residing in the state have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. The amendment of R.43-243 is necessary in order to align state rules, regulations, and policies with the IDEA regulation amendment.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional costs to the state or its political subdivisions. The amendment of the regulation will provide districts and schools with a better understanding of the requirements and purposes of the IDEA regulation.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates.

22 PROPOSED REGULATIONS

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The amendment of this regulation does not have any effect on the environment or public health.

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

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

Statement of Rationale:

The proposed amended regulation reflects the amendments made by the U.S. Office of Special Education to the IDEA regulation in December 1, 2008. The amendment of R.43-243 would assist in aligning state regulations and policies with the amendments to the IDEA 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. 4115
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 and 59-53-1810

43-233. South Carolina Four-Year State Plan for Career and Technology Education, Fiscal Years 2001-2004

Synopsis:

The State Board of Education proposes to repeal R.43-233. The South Carolina Four-Year State Plan for Career and Technology Education, and the subsequent updates and extensions authorized by the U.S. Department of Education under the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins III), expired on June 30, 2007. The Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) created the need for a one-year transition plan and a subsequent five-year plan for approval to receive the federal funds from the U.S. Department of Education. The state plan must be updated periodically according to guidelines issued by the U.S. Department of Education. There is no requirement that the state plan approved by the U.S. Department of Education be incorporated into a State Board of Education Regulation.

The Notice of Drafting was published in the *State Register* on July 24, 2009.

Instructions: The entire Regulation 43-233 is being repealed.

Text:

Repeal Regulation 43-233.

Document No. 4043
WORKERS' COMPENSATION COMMISSION
 CHAPTER 67

Statutory Authority: 1976 Code Section 42-3-30

- 67-202. Words and Phrases, Defined.
- 67-203. Official Forms and Documents.
- 67-205. Filing with the Commission, Defined.
- 67-206. Filing a Claim.
- 67-207. Requesting a Hearing, Claimant.
- 67-211. Service of Forms and Documents.
- 67-213. Service of Orders, Hearing Notices, and Review Hearing Notices.
- 67-401. Designation of Authorized Recipient of Service and Other Demands.
- 67-405. Employers and Insurance Carriers, Proof of Compliance.
- 67-406. Reporting Insurance Policies with Effective Dates on or after July 1, 1989.
- 67-407. Insurance Policies with Effective Dates before July 1, 1989.
- 67-408. The State Workers' Compensation Fund, Proof of Compliance.
- 67-409. Duplicate or Dual Insurance Coverage.
- 67-410. Information Required When Filing Proof of Compliance.
- 67-411. Employer's Report of Injury, Form 12A.
- 67-412. Employer's Report of Injury, Form 12M.
- 67-415. Documentation of Insurance.
- 67-416. Electronic Data Interface.
- 67-603. Employer's Answer to a Request for Hearing, Time for Filing and Service.
- 67-607. Hearing Notice.
- 67-609. Withdrawing a Request for Hearing.

24 FINAL REGULATIONS

- 67-701. Requesting Commission Review of the Hearing Commissioner's Decision.
- 67-709. Commission Review, Procedure.
- 67-712. Requesting Higher Court Review.
- 67-801. Settlement of the Claim, General.
- 67-802. Settlement, Form 16.
- 67-803. Settlement by Agreement and Final Release.
- 67-804. Informal Conference.
- 67-805. Third Party Settlements.
- 67-1001. Parties, General.
- 67-1101. Total or Partial Loss or Loss of Use of a Member, Organ, or Part of the Body.
- 67-1204. Reporting Attorneys Fees for approval.
- 67-1301. Medical Reports.
- 67-1307. Rehabilitation Professionals.
- 67-1308. Communication Between Parties And Health Care Providers.
- 67-1402. Unqualified Self-Insured Employer, Prosecution.

Synopsis:

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

The Notice of Drafting was published in the *State Register* on September 26, 2008.

Instructions:

Section-by-Section Discussions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A new R.67-401B is added.

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

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

Current R.67-401C is renumbered R67-401D.

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

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

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

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

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

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

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

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

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

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

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

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

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

R.67-406 is deleted in its entirety.

R.67-407 is deleted in its entirety.

R.67-408 is deleted in its entirety.

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

R.67-410 is deleted in its entirety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R.67-801B is a grammatical correction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

R.67-804C(2)(a) through R.67-804C(2)(f) are renumbered to change form numbers and to reflect changes regarding medical reports.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Text:

67-202. Words and Phrases, Defined.

A. The definition of words and phrases used in this Chapter include:

(1) Accident Reporting Division: A division of the Commission responsible for receipt and processing of the employer’s first report of injury, Form 12A (ACORD 4) and Form 12M.

(2) Certified Mail: Mail including that which is certified by the U. S. Postal Service and that carried by a commercial carrier that keeps proper documentation.

(3) Claimant: The party making a claim including his or her attorney.

(4) Claims Department: A department of the Commission responsible for managing the workers’ compensation file. The department reviews case files that are not contested and assures compliance with the provisions of this Chapter and the Act by requesting and, if necessary, assessing a fine for failure to file reports required by this Chapter and the Act.

(5) Compliance Division : A division of the Commission responsible for investigation and, if necessary, requests prosecution of an employer who refuses or neglects to comply with the insurance provisions of this Chapter and the Act. The division is authorized to request and, if necessary, assess a fine for failure to file reports required under this Chapter and the Act.

(6) Coverage Division: A division responsible for monitoring and maintaining coverage records of employers, employees, insurance carriers, self-insurance funds, and the State Accident Fund’s compliance with the Chapter and the Act. The division is authorized to request and, if necessary, assess a fine for failure to file reports required under this Chapter and the Act.

(7) Employer’s Representative.

(a) The employer’s insurance carrier, the claims administrator for a self-insurance fund or a self-insured employer, the State Accident Fund, and counsel of record for the employer and its insurance carrier.

(b) If an employer is operating as an unqualified self-insured, the term “employer’s representative” shall mean the unqualified self-insured employer and its attorney, if any, who shall be directly responsible for compliance with the provisions of this Chapter and the Act.

(8) Federal Employer Identification Number: “FEIN.”

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(9) Informal Conference: Also called a “viewing,” an informal conference is a meeting with the claimant, the employer’s representative, and a Commissioner or claims mediator. At the informal conference, the Commissioner or claims mediator answers questions about the claim and reviews, for approval, a proposed settlement of a claim. An informal conference may be held for the purpose of certifying a Form 17 according to R.67-505E and R.67-506F.

(10) Judicial Department: A department of the Commission which assigns the informal conference, contested case, and Commission review docket and issues the hearing notice. The department reviews the Commission’s files and assures compliance with the provisions of this Chapter and the Act by requesting and, if necessary, assessing a fine for failure to file reports required by this Chapter and the Act.

(11) Medical Services Division: A division of the Commission which administratively reviews physician fees and hospital charges to assure compliance with the Medical Services Provider Manual and the Hospital and Ambulatory Surgery Center Payment Manual.

(12) Public Affairs Division: A division of the Commission responding to the general inquiries of employees and employers concerning their rights, benefits, and obligations under the Act. The service does not provide legal advice or offer opinions concerning a particular claim.

(13) Self-Insurance Division: A division of the Commission which monitors the compliance of self-insured employers and self-insurance funds with this Chapter and the Act. The division reviews applications to self-insure and is authorized to request and, if necessary, assess a fine for failure to file reports required under this Chapter and the Act.

(14) South Carolina Workers’ Compensation Commission: the Commission.

(15) Unqualified Self-Insured Employer: An employer who refuses or neglects to comply with the insurance provisions of this Chapter and the Act.

(16) Workers’ Compensation Law: the Act.

(17) Workers’ Compensation Commission’s file number: the W.C.C. file number.

(18) Rehabilitation professionals: coordinators of medical rehabilitation services.

B. In addition, other words and phrases are defined in the article most closely associated with the word or phrase.

67-203. Official Forms and Documents.

A. The Commission prepares and approves all required forms. A person shall use a Commission form and shall not substitute another document for a form. Reproduction of a form the same size is permitted, provided content is not altered.

B. Commission forms are available on the web site. The Commission supplies at a reasonable charge, upon written request to the Commission’s Mail Room, the following forms.

(1) Form S-1, Notice of Third Party Action, Employer;

(2) Form S-2, Notice of Third Party Action, Employee;

(3) Form S-3, Entitlement to Right of Action;

- (4) Form S-4, Court Certificate;
- (5) Form 2, Employer's Notice of Being Subject to the Act;
- (6) Form 5, Corporate Officer Notice to Reject;
- (7) Form 6, Application to Create a Self-Insurance Fund;
- (8) Form 6A, Application for Membership in a Self-Insurance Fund;
- (9) Form 7, Application to Individually Self-Insure;
- (10) Form 7A, Corporate Guaranty;
- (11) Form 8, Proof of Compliance, Surety Bond;
- (12) Form 8A, Proof of Compliance, Securities Pledge;
- (13) Form 8B, Proof of Compliance, Memorandum of Understanding, and Irrevocable Letter of Credit;
- (14) Form 8C, Proof of Compliance, Excess Insurance;
- (15) Form 9, Certificate for Self-Insurance;
- (16) Form 10, Self Insurance Tax Return;
- (17) Form 11, Self Insurer's Quarterly Financial Report;
- (18) Form 11A, Self Insurer's Annual Financial Report;
- (19) Form 12A, Employer's First Report of Injury (ACORD 4);
- (20) Form 12M, Annual Minor Medical Report;
- (21) Form 14A, Health Insurance Claim Form (HCFA-1500);
- (22) Form 14B, Physician's Statement;
- (23) Form 15, Temporary Compensation Report;
- (24) Form 15S, Supplemental Report of Varying Temporary Partial Payments;
- (25) Form 16, Agreement for Permanent Disability/Disfigurement Compensation (prior to July 1, 2007);
- (26) Form 16A, Agreement for Permanent Disability/Disfigurement Compensation (after July 1, 2007);
- (27) Form 17, Receipt of Compensation;
- (28) Form 18, Periodic Report;
- (29) Form 19, Status Report and Compensation Receipt;
- (30) Form 20, Statement of Earnings of Injured Employee;

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- (31) Form 21, Employer's Request for Hearing;
- (32) Form 24, Application for Lump Sum Award;
- (33) Form 27, Subpoena;
- (34) Form 30, Request for Commission Review;
- (35) Form 31, Notice of Review Hearing;
- (36) Form 32, Request to Waive Appeal Filing Fee;
- (37) Form 36, Medical Fee Approval;
- (38) Form 38, Employer's Withdrawal of Election to Adopt the South Carolina Workers' Compensation Act;
- (39) Form 39, Coverage Coding Form;
- (40) Form 50, Employee's Notice of Claim and/or Request for Hearing;
- (41) Form 51, Employer's Answer to Request for Hearing;
- (42) Form 52, Employee's Notice of Claim and/or Request for Hearing, Death Case;
- (43) Form 53, Employer's Answer to Request for Hearing, Death Case;
- (44) Form 54, Employer's Notice of Claim and/or Request for Hearing;
- (45) Form 55, Second Injury Fund's Answer to Employer's Request for Hearing;
- (46) Form 58, Pre-hearing Brief;
- (47) Form 59, Appellant's Informal Brief;
- (48) Form 61, Attorney Fee Petition;
- (49) Form 65, Waiver of Claim Involving an Occupational Disease;
- (50) Second Injury Fund Form 1, Agreement to Reimburse Compensation;
- (51) Second Injury Fund Form 2, Reimbursement Request;
- (52) Second Injury Fund Form 3, Employer's Notice of Claim for Reimbursement from Second Injury Fund;
- (53) Second Injury Fund Form 4, Medical Information Request.

67-205. Filing with the Commission, Defined.

A. The date of filing a form or document with the Commission is provided in subsections B, C, and D, below.

B. A form or document delivered to the Commission electronically, by first class mail or by hand delivery is filed the date of receipt in the Commission's offices as indicated by the earliest date stamped on the form or document by an official Commission stamp with the exception of forms and documents delivered pursuant to R.67-205C and R.67-205D.

C. A form or document delivered to the Commission by certified or registered mail is deemed filed the date of deposit in the United States Postal Service as indicated by the date of postmark.

D. The following forms or documents are deemed filed on the date on the accompanying certificate of service properly addressed to the Commission: Forms 15(III), 50, 51, 52, 53, 54, 55, 58, 30, and appellate briefs.

67-206. Filing a Claim.

A. To file a claim, file with the Commission's Claims Department a Form 50, Form 52, or a letter as provided below.

B. To file a claim on a Form 50 or Form 52, mark the box at the signature line which states "I am filing a claim. I am not requesting a hearing at this time."

(1) Address and deliver the form to the Claims Department.

(2) Filing a claim requires the WCC file number or the Coverage Coding Form 39 must be included. This requirement may be waived for unrepresented claimants.

(3) Filing a claim does not request a hearing nor is the employer's representative required to file a Form 51 or 53.

C. A letter filed with the Commission also files a claim. The letter should include the information listed in items (1) through (13) below:

(1) Claimant's name (and worker's name, if different);

(2) Claimant's address (and worker's address, if different);

(3) Claimant's home and work telephone numbers (and worker's home and work telephone numbers, if different);

(4) Claimant's social security number (and worker's social security number, if different);

(5) Employer's name;

(6) Employer's address;

(7) Employer's telephone number;

(8) Employer's insurance carrier, if known;

(9) Date of injury;

(10) The county in which the injury occurred;

(11) Type of injury (to which area of body);

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(12) Description of the accident;

(13) The WCC file number or Coverage Coding Form must be included.

D. Failure to include any of the information above does not bar the claim if the information necessary to an issue in the claim is given to the Commission upon request.

E. The Commission will notify the employer's representative a claim has been filed. The employer's representative shall immediately contact the claimant.

67-207. Requesting a Hearing, Claimant.

A. To request a hearing, file a Form 15, Form 50, or Form 52 with the Commission's Judicial Department as provided below:

(1) Mark the box at the signature line on the Form 50 or Form 52 which states, "I am requesting a hearing," or sign and date under Section III of the Form 15 "Notice to Injured Worker or Legal Representative When Temporary Compensation Has Been Stopped."

(2) Address and deliver the form to the Judicial Department.

(3) The Commission serves the Form 15, Form 50, or Form 52 on the employer according to R.67-210 and R.67-211.

(4) When under the laws of this State the employer and its insurance carrier, if any, are required to be represented by an attorney in a contested case hearing, an attorney shall be designated according to R.67-603.

(5) The WCC file number or Coverage Coding Form must be included.

B. Filing a Form 50 or Form 52 with the Commission requesting a hearing also files the claim if a claim has not been filed before.

67-211. Service of Forms and Documents.

A. Claimant's Request for Hearing.

(1) When the claimant is represented by an attorney, the attorney shall serve a copy of the Form 15(III), Form 50, or Form 52 hearing request electronically or by depositing the form in the United States Postal Service first class postage, addressed to the opposing parties pursuant to R.67-210. Service is deemed complete upon mailing unless the form is returned. If the form is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

(2) When the claimant is not represented, the claimant may serve the Form 15(III), Form 50, or Form 52 hearing request as set forth in A(1) above. When the claimant does not serve the hearing request, the Commission will serve the request electronically or by depositing the form in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210.

B. Employer's Representative's Request for Hearing and/or Response to a Request For Hearing.

(1) When the claimant is represented by an attorney, the employer's representative shall serve a copy of the Form 21, Form 51, or Form 53 electronically or by depositing the form in the United States Postal Service first class postage, addressed to the claimant's attorney. Service is deemed complete upon mailing unless the

form is returned. If the form is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

(2) When the claimant is not represented by an attorney, the employer's representative shall serve a copy of the Form 21, Form 51, or Form 53 by personal service or by certified mail, return receipt requested, delivery restricted to the addressee. When service is by certified mail, service is complete the date of the addressee's receipt of the form as indicated by the signed certified mail return receipt. If the form is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

C. Other Forms and Documents.

(1) Unless otherwise specified in this Chapter, serve other forms and documents electronically or by depositing the form or document in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210. Service is deemed complete upon mailing unless the document is returned. If the document is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure.

(2) When the claimant is not represented by an attorney, the claimant may serve a form or document according to C(1) above. When the claimant does not serve the form or document, the Commission will serve it by depositing the form or document in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210.

(3) Hearing notices may be served electronically pursuant to R.67-210. All unrepresented claimants and uninsured employers shall be served by depositing the notice in the United States Postal Service, first class postage per R.67-210.

67-213. Service of Orders, Hearing Notices, and Review Hearing Notices.

A. The Commission serves orders electronically, by certified mail, return receipt requested or by deposit in the United States Postal Service, first class postage, addressed to the parties according to R.67-210.

(1) Service is made by delivering a copy of the order to a party representing himself or herself or to the attorney representing the party.

(2) When service is made by certified mail, the date of service is the date of the addressee's receipt indicated by the certified mail return receipt. When service is made by first class mail, five days are added to the date of mailing. Service by first class mail is deemed complete five days after the date of deposit in the United States Postal Service.

B. The Commission serves hearing notices and Form 31, Review Hearing Notices, electronically or by deposit in the United States Postal Service first class postage, addressed to the parties according to R.67-210. Service is deemed complete upon mailing. All unrepresented claimants and uninsured employers shall be served by depositing the notice in the United States Postal Service, first class postage per R.67-210. The Commission may, but is not required to, serve such notices by certified mail, return receipt requested. Service by certified mail is complete upon receipt.

C. When an attorney represents a party, the party is not served. If the mailing is returned, service may be completed as in R.67-211.

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67-401. Designation of Authorized Recipient of Service and Other Demands.

A. Every workers' compensation insurance carrier, self-insured employer, and self-insurance fund doing business in this State shall designate one address and one electronic address as the authorized recipient in underwriting matters of service, mail, documentation, requests, inquiries, and other demands concerning the employer, the insurance carrier, the self-insured, the self-insurance fund, and a member of the self-insurance fund.

B. Every workers' compensation insurance carrier, self-insured employer, and self-insurance fund doing business in this State shall designate one address and one electronic address as the authorized recipient in claims and all other non-underwriting matters of service, mail, documentation, requests, inquiries, and other demands concerning the employer, the insurance carrier, the self-insured, the self-insurance fund, and a member of the self-insurance fund.

C. The workers' compensation insurance carrier, self-insured employer, and self-insurance fund shall provide in writing the name, address, electronic address, and telephone number of the authorized recipient to the Commission.

D. The designation is deemed continuous. A change in designation shall not be effective until after thirty days written notice to the Commission.

E. If coverage has been reported to the Commission by EDI and the report included an underwriting office address, the address most recently reported shall be deemed the designated address for all underwriting matters related to that coverage in lieu of the address designated under R.67-401A.

F. If a claim has been reported to the Commission by EDI and the report included a claims office address, the address most recently reported shall be deemed the designated address for all matters related to that claim in lieu of the address designated under R.67-401B.

G. Every workers' compensation insurance carrier, self-insured employer, and self-insurance fund shall provide in writing their home office address, electronic address, and telephone number.

67-405. Employers and Insurance Carriers, Proof of Compliance.

A. Every employer operating under the Act shall file with the Commission proof of its compliance with the insurance provisions of this Chapter and the Act.

B. When an employer insures its liability under the Act, the insurer shall file a report of coverage within thirty days of the inception date of the policy with the Commission's authorized agent as proof of the employer's compliance with the insurance provisions of this Chapter and the Act and as provided herein.

(1) A workers' compensation insurance carrier shall file a report of coverage in accordance with R.67-416.

(2) The State Accident Fund shall file a report of coverage in accordance with R.67-416.

(3) A self-insurance fund shall comply with the insurance reporting requirements in Article 15 of this Chapter.

C. If the employer fails to renew its insurance, or the insurer cancels the policy, the employer's insurer shall immediately notify the Commission's authorized agent that it no longer insures the employer.

(1) A worker's compensation insurance carrier shall file a notice of termination in accordance with R.67-416. Such termination shall not be effective until thirty days after receipt by the Commission's authorized agent.

(2) The State Accident Fund shall file a notice of termination in accordance with R.67-416. Such termination shall not be effective until thirty days after receipt by the Commission's authorized agent.

(3) A self-insurance fund shall file notice of termination of a fund member's self-insurance privileges as provided in Article 15 of this Chapter.

D. The employer's representative and the State Accident Fund shall on behalf of the employer file with the Commission all reports and documents required by this Chapter and the Act.

67-409. Duplicate or Dual Insurance Coverage.

A. When duplicate or dual coverage exists by reason of two different insurance carriers issuing two policies to the same employer securing the same liability, the Commission shall presume the policy with the later effective date is in force and the earlier policy terminated on the effective date of the later policy.

B. When both policies carry the same effective date, one policy may be cancelled by filing a notice of termination retroactive to the date of the policy's inception.

(1) Cancellation must be reported as provided in R.67-405.

(2) The insurance carrier issuing the notice of termination shall provide the employer notice of termination.

67-411. Employer's Report of Injury, Form 12A.

A. Each employer shall keep a record of all injuries, fatal or otherwise, received by its employees in the course of their employment.

(1) The record must be made on the Form 12A and retained or filed according to section B below.

(2) The Commission shall not construe the filing of a Form 12A as an admission of liability on the part of the employer or the employer's representative.

B. Employer's Responsibilities

(1) The employer shall make a record of all work-related injuries reported by its employees on the Form 12A and retain the record for a period of two years.

(2) When an injury requires less than five hundred dollars in medical treatment and does not cause more than one lost workday or permanency, the employer may pay for the medical treatment. The employer is not required to make a written report to the employer's representative or to the Commission.

(3) If the employer denies the claim for injuries or does not elect to pay for the medical treatment, the employer shall send a copy of the Form 12A to the employer's representative immediately after the occurrence and knowledge of the injury.

(4) When an injury requires five hundred dollars or more in medical treatments or when it is determined more than one workday will be missed as a result of the injury or there is likely to be permanency, the employer shall send a copy of the Form 12A to the employer's representative immediately.

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- (5) The employer shall report all fatalities to its representative.

C. Employer's Representative's Responsibilities

(1) When an injury requires less than two thousand five hundred dollars in medical treatments and does not result in compensable lost time or permanency, the employer's representative shall retain the Form 12A filed by the employer for two years. The employer's representative shall make a report of the injuries in this category to the Commission as required in R.67-412.

(2) When an injury requires two thousand five hundred dollars or more in medical treatments or results in compensable lost time or permanency, the employer's representative shall send the Form 12A to the Commission within ten business days after the occurrence and the employer's knowledge of the injury. In the event the injury was previously processed under section C(1) above, the Form 12A shall be filed with the Commission within ten business days of the employer's representative's knowledge the limits set in section C(1) above have been exceeded. The Form 12A shall be marked "Previously Processed As Medical Only."

(3) If the employer's representative, or the employer, denies the claim for injuries, the employer's representative shall notify the claimant in writing and send the Form 12A, a Form 19 (reference R.67-414), and a copy of the letter denying the claim to the Commission within ten business days after the occurrence and the employer's knowledge of the reportable injury.

- (4) The employer's representative is required to report all fatalities to the Commission.

D. An unqualified self-insured employer shall file a Form 12A with the Commission within ten business days after the occurrence and knowledge of an injury, regardless of the nature or seriousness of the injury.

67-412. Employer's Report of Injury, Minor Medical.

A. The employer's representative shall report to the Commission injuries reported by the employer pursuant to R.67-411C(1).

B. This report shall be made in accordance with R.67-416 within ten days of closing by the employer's representative.

C. Late reports shall be subject to a fine for late reporting plus an additional penalty of five dollars for each day late.

67-415. Documentation of Insurance.

A. For purposes of Section 42-1-415, either of the following is acceptable as documentation of insurance:

(1) The declaration page of a standard workers' compensation policy, as issued by the insurance carrier for the insured, serves as documentation of insurance for both South Carolina and out-of-state employers, provided South Carolina is indicated as a named state in section 3A or 3C.

(2) The ACORD Form 25-S, Certificate of Insurance, as issued by the insurance carrier for the insured, is acceptable documentation of insurance, provided the Certificate of Insurance indicates a valid South Carolina address for the insured, is dated, signed and issued by an authorized representative of the insurance carrier for the insured. For an out-of-state employer, the ACORD Form 25-S is acceptable, provided the authorized representative of the insurance carrier for the insured affirms the following in an accompanying statement: South Carolina is a named state in section 3A or 3C of the declaration page of the insured's policy.

B. If the employer is a member of a self-insured fund approved by the Commission, the ACORD Form 25-S, Certificate of Insurance, must be dated, signed, and issued by an authorized representative of the self-insured fund.

C. If the employer has been approved by the Commission to individually self-insure according to R.67-1500, et seq., the self-insurance certificate issued by the Commission shall serve as documentation of insurance as provided in Section 42-1-415.

67-416. Electronic Data Interface.

A. All insurance carriers, third party administrators, self-insureds, self-insured funds, and the State Accident Fund reporting coverage, accident, and claims information to the Commission shall report such information using electronic interchange standards prescribed by the Commission.

B. Failure to comply with the Commission's prescribed electronic data interchange standard shall result in the assessment of fines in accordance with R.67-1401.

67-603. Employer's Answer to a Request for Hearing, Time for Filing and Service.

A. The employer's representative shall respond to a Form 50 by preparing a Form 51 and respond to a Form 52 by preparing a Form 53.

B. The employer's attorney shall fully state its position and defenses, if any, replying to each specification in the Form 50 or Form 52 and:

(1) File the Form 51 or Form 53 and a proof of service with the Commission's Judicial Department within thirty days of service of the Form 50 or Form 52; and

(2) Serve the claimant a copy of the Form 51 or Form 53 according to R.67-211.

C. Failure to file a Form 51 or Form 53 within the period in section B(1) shall be deemed a general denial of liability for the benefits claimed and the employer and its representative by the failure to respond within the period in section B(1) shall forfeit each special and affirmative defense allowed by the Act including the defenses available in Sections 42-9-60, 42-15-20, 42-15-40, and 42-17-90 of the Act.

D. When under the laws of this State an employer and its insurance carrier, if any, are required to be represented by an attorney in a contested case hearing, its attorney must file a letter of representation with the Judicial Department and provide a copy to the opposing party no later than sixty days from the date of service of the Form 50 or Form 52.

E. A Form 51 must describe with as much specificity as possible the defenses to be relied upon by the defendants. A Form 51 shall not state "all defenses apply" or other similar language unless such is actually the case. A Form 51 not complying with this regulation shall not be considered at a hearing.

67-607. Hearing Notice.

A. Each party is afforded at least thirty days notice of a hearing.

B. The Commission issues a hearing notice to the parties which includes the date, place, time, and purpose of the hearing.

C. Hearing notices may be issued electronically.

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67-609. Withdrawing a Request for Hearing.

A. A claimant may withdraw a Form 50 or Form 52 once as a matter of right with leave to renew.

(1) A Form 50 or Form 52 may be withdrawn by writing the Commission's Judicial Department, if a hearing notice has not been issued, or, the Commissioner's office identified on the hearing notice.

(2) When a Form 50 or Form 52 is withdrawn, a notice removing the case from the docket will be filed in the Commission's record and a copy sent electronically or mailed to the parties in R.67-210.

B. The notice is without prejudice to the claimant's right to proceed with his or her claim.

(1) If the nature of the claim and the relief requested does not change, write the Judicial Department requesting the Form 50 or Form 52 be reset for hearing.

(2) If the nature of the claim or relief requested changes, file according to R.67-207, a new Form 50 or Form 52 with the word "Amended" printed or typed boldly on the top of the form.

C. Withdrawing a Form 50 or Form 52 the second time without good cause may operate as a voluntary dismissal of the claim when the form is withdrawn by a claimant who has once withdrawn a Form 50 or Form 52 based on the same set of facts, and, in the opinion of the Commissioner, the form is withdrawn merely for the purpose of delay.

D. Withdrawing a Form 15 request for hearing waives the sixty day hearing requirement. If the jurisdictional commissioner is unable to reschedule the case, the file will be returned to the Judicial Department to be reassigned.

67-701. Requesting Commission Review of the Hearing Commissioner's Decision.

A. Either party or both may request Commission review of the Hearing Commissioner's decision by filing the original and three copies of a Form 30, Request for Commission Review, with the Commission's Judicial Department within fourteen days of the day the Commissioner's order is received. The fourteen day period is jurisdictional. The Commission will not accept for filing a Form 30 that is not postmarked or delivered to the Commission by the fourteenth day from the date of receipt of the Hearing Commissioner's order. The appellant shall attach a copy of the Order and Decision being appealed to the Form 30 and to the brief.

(1) The party requesting review is the appellant. The opposing party is the respondent. Place the proper designation after the names of the parties on the form.

(2) The W.C.C. file number assigned to the case is retained and must be on the Form 30.

(3) The grounds for appeal must be set out in detail on the Form 30 in the form of questions presented.

(a) Each question presented must be concise and concern one finding of fact, conclusion of law, or other proposition the appellant believes is in error.

(b) References to evidence must be by title and exhibit number.

(4) To request oral argument, mark the space provided on the Form 30.

(a) If the space provided on the Form 30 requesting oral argument is not marked, oral argument is waived. The Commission will review the Commissioner's decision on the record without oral argument.

(b) If the appellant does not request oral argument, the respondent may request oral argument by writing the Judicial Department. A copy of the letter requesting oral argument must be sent to all opposing parties pursuant to R.67-211.

(c) If respondent requests oral argument, both parties may present oral argument.

(5) File the Form 30 and proof of service with the Judicial Department. Serve the opposing party pursuant to R.67-211.

(a) The Judicial Department will not set a Form 30 for review until proof of service is filed.

(b) Failure to file proof of service will result in receipt of a notice administratively dismissing the Form 30.

(c) An administrative dismissal does not bar review if the Form 30 has been timely filed. When service is completed, write the Judicial Department requesting the Form 30 be set for review.

B. If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of the Form 30 and serve the Form 30 on the opposing party.

67-709. Commission Review, Procedure.

A. Commission review may be conducted by a three or six member review panel either of which excludes the original Hearing Commissioner. An order of a three member review panel has the same force and effect as a six member review panel and is the final decision of the Commission.

B. The Commission's Chair with approval of the majority of the other Commissioners shall assign cases to a three member panel according to the following subsections:

(1) When a Form 30 is filed, the Hearing Commissioner is notified. If the Hearing Commissioner determines the review involves a novel issue of law or fact, the Hearing Commissioner may request the Commission's Chair set the case for review by a six member review panel.

(2) If the Hearing Commissioner does not request a six member review, the Commission's Chair may assign the review to a three member panel.

(3) The Commission's Chair may appoint by random selection two review panels and exclude, on a rotating basis, one Commissioner from the panels each month. The Commission's Chair may assign a case for review as in B(2) above to a three member panel that excludes the original Hearing Commissioner.

C. The Commissioners reviewing the case may confer and shall vote within ten days of the date of review. The original Hearing Commissioner's decision is neither a vote, nor shall it be considered as a vote, of the Commission's final decision.

D. To reverse the Hearing Commissioner's decision requires a majority decision of the Commissioners reviewing the case.

(1) A majority of a three member panel consists of two votes to reverse.

(2) A majority of a six member panel consists of four votes to reverse.

(3) If one Commissioner is temporarily incapacitated or a vacancy exists on the Commission, review may be conducted by the remaining Commissioners sitting as a five or three member panel.

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(a) The Hearing Commissioner may request review of the case as in B(1) above, and a panel of five may review the case. A majority consists of four votes to reverse.

(b) If the Hearing Commissioner does not request review as in B(2) above, the Commission's Chair may assign the review to a three member panel. A majority consists of two votes to reverse.

E. A Hearing Commissioner's finding of fact or conclusion of law subject to review by the Commission may be modified by the entry of the review panel's order making a new finding of fact, conclusion of law, or modifying the Hearing Commissioner's finding of fact or conclusion of law.

(1) On review, a vote to affirm and modify is deemed a vote to affirm, or a vote to reverse and modify is deemed a vote to reverse.

(2) The Commissioners, together, shall agree on a modification if any and record their findings of fact and conclusions of law on a vote sheet.

(3) If the case is reviewed by a three member panel and the panel cannot agree on modifying the Hearing Commissioner's decision, the Commissioners on the three member panel may request the remaining Commissioners, excluding the Hearing Commissioner, review the case and the issue in dispute as follows:

(a) The panel may certify an issue for review to the remaining Commissioners, excluding the Hearing Commissioner, by completing a vote sheet and phrasing the issue in dispute in the form of a question.

(b) The Commission's Judicial Department will notify the parties of the question presented to the remaining Commissioners and the parties may file briefs according to R.67-705 on or before the date stated on the notice. Oral argument is not permitted.

(c) The remaining Commissioners shall consider the question presented, briefs if any, and register their decision on the vote sheet within thirty days of the date of notice to the parties.

(d) The panel members shall issue an order thirty days from the date the remaining Commissioners register their decision.

(4) The Commission sitting as a five or six member review panel shall register a vote in accordance with section C above. The Commission sitting as a five or six member panel may remand a case to the Hearing Commissioner only for taking additional or newly discovered evidence or for exceptional circumstances set forth in its order.

F. If a Commissioner fails to register a vote within the periods referred to above, the Commissioner is deemed to have registered a vote affirming the Hearing Commissioner and may not vote otherwise.

G. [Repealed]

67-712. Requesting Higher Court Review.

A. Notice shall be given to the Judicial Department of any and all subsequent appeals and orders. See Rule 203(b)(6), SCACR.

B. The appellant shall provide the Judicial Department with a copy of any orders issued.

67-801. Settlement of the Claim, General.

A. After the claimant reaches maximum medical improvement the parties may agree to settle the claim by signing a Form 16 or Form 16A, Agreement for Permanent Disability/Disfigurement Compensation, or by signing an Agreement and Final Release (clinchier).

B. If each party is represented by an attorney, an appearance before a Commissioner is not required for approval of a settlement unless either party requests an informal conference, or the Commissioner schedules a hearing.

C. If the claimant is not represented by an attorney, the parties must appear before the Commissioner assigned to the claim at an informal conference for approval of the settlement. At the informal conference, the Commissioner will review the proposed settlement and may approve it if the Commissioner finds the settlement fairly made and in accordance with the provisions of the Act.

D. A Form 16 or Form 16A retains the claimant's right to request a hearing according to R.67-207 for additional benefits not later than one year from the date of the last compensation payment. By signing the Form 16 or Form 16A, the employer's representative does not agree it will make any additional payments in the future unless the form specifically provides otherwise.

E. An Agreement and Final Release (clinchier) relieves the employer and its representative from any further responsibility for payment of compensation or medical expenses, unless the Agreement and Final Release specifically provides otherwise. When the claimant signs the Agreement and Final Release and it is approved, the claimant does not have the right to ask for additional payments in the future even if the claimant's medical condition worsens, unless otherwise specifically provided in the document.

F. An official copy of the settlement is approved and certified by the Commission as binding.

67-802. Settlement, Form 16, Form 16A.

A. If parties agree to the terms of a Form 16 or Form 16A, the employer's representative completes a Form 16 or Form 16A by recording the claimant's compensation rate, the percent of disability agreed upon, disfigurement, if any, and the number of weeks of compensation the claimant will receive. The form may be approved as follows:

(1) If the claimant is not represented by an attorney, the Form 16 or Form 16A must be approved at an informal conference.

(a) The employer's representative must request an informal conference by filing an updated Form 18 showing the status of payment of temporary compensation, if any, and medical expenses with the Commission's Judicial Department. For claims arising after July 1, 2007 a Form 14B is also required. The claimant may request an informal conference by writing to the Judicial Department.

(b) If the parties reach an agreement at the informal conference which the Commissioner approves, or the claims mediator recommends, the parties sign the agreement. (A Commissioner must approve a claims mediator's recommendation before the settlement is recorded as binding.)

(c) If the parties do not reach an agreement with which the Commissioner approves the Commission will set a hearing according to R.67-804I.

(2) If the claimant is represented by an attorney, the claimant, his or her attorney, and the employer's representative sign the Form 16 or Form 16A. The Form 16 or Form 16A may then be filed with the Commission for approval without an appearance before a Commissioner, as follows:

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(a) The employer's representative files an original and one copy of the Form 16 or Form 16A with the Commission's Claims Department. The employer's representative shall file the Form 14B with the Form 16A for claims arising after July 1, 2007.

(b) A Commissioner reviews the Form and may approve the Form.

(c) If the Commissioner signs the Form approving it, the Claims Department records the settlement and returns an approved copy of the Form to the employer's representative.

(d) The employer's representative must provide the claimant a copy of the approved Form 16 or Form 16A.

(3) If the claimant is represented by an attorney, and the employer is represented by an attorney, a Form 16 or a Form 16A shall be filed with the Commission.

(a) The attorney for the employer's representative files an original and one copy of the Form 16 with the Commission's Claims Department. A Commissioner reviews the Form and may approve the Form.

(b) The attorney for the employer's representative files an original and one copy of the Form 16A with the Commission's Claims Department.

(c) The Commission's Claims Department reviews and records the settlement and returns an official copy of the Form to the attorney for the employer's representative.

B. The Commissioner may schedule an informal conference to discuss the terms of the settlement when necessary.

67-803. Settlement by Agreement and Final Release.

A. If the parties agree to the terms of a settlement by entering into an Agreement and Final Release, the document shall include the following:

(1) The caption of the claim;

(2) A statement of the facts at issue;

(3) The date and nature of the alleged injury coinciding with the date and nature of each injury on the Form 12A, Form 50, or Form 52;

(4) The amount of the settlement and terms of payment; and

(5) The signature of the claimant, his or her attorney, if any, and the attorney for the employer's representative.

B. An Agreement and Final Release shall be approved as follows:

(1) If the claimant is not represented by an attorney, the Agreement and Final Release must be approved at an informal conference.

(a) The employer's representative must request an informal conference by filing an updated Form 18 showing status of payment of temporary compensation, if any, and medical expenses with the Commission's Judicial Department. For claims arising after July 1, 2007 a Form 14B is also required. The claimant may request an informal conference by writing to the Judicial Department.

(b) The attorney for the employer's representative and the claimant attend the informal conference. If the parties reach an agreement at the informal conference that the Commissioner approves, the Agreement and Final Release is signed by the claimant, the attorney for the employer's representative, and the Commissioner.

(c) The attorney for the employer's representative must provide the original and two copies of the Agreement and Final Release to the Commissioner at the informal conference. The Commission returns an official copy to the attorney for the employer's representative, and the attorney for the employer's representative shall provide the claimant a copy of the official Agreement and Final Release.

(d) If the Commissioner does not approve the Agreement and Final Release, the Agreement and Final Release is neither approved nor binding. The Commission will set the claim for hearing according to R.67-804I.

(2) If the claimant is represented by an attorney, the claimant, his or her attorney, and the attorney for the employer's representative sign the Agreement and Final Release. The Agreement and Final Release shall be filed with the Claims Department.

(a) The attorney for the employer's representative files the original and two copies of the proposed Agreement and Final Release with the Claims Department.

(b) An official copy of the Agreement and Final Release is returned to the attorney for the employer's representative.

(c) The employer's representative shall provide the claimant an official copy of the Agreement.

C. The Commission shall not approve an Agreement and Final Release that is not fairly made and in accordance with the Act. An approved Agreement and Final Release is binding. The employer's representative shall pay compensation according to its terms.

67-804. Informal Conference.

A. A claims mediator may appear on behalf of a Commissioner at an informal conference and review a proposed Form 16 or Form 16A settlement or review a R.67-505 or R. 67-506 request to certify a Form 17. A claims mediator may not appear on behalf of a Commissioner at an informal conference requested for review of a proposed Agreement and Final Release.

B. An informal conference is defined in R.67-202(8).

C. Request an informal conference as follows:

(1) File an updated Form 18 indicating the status of payment of temporary compensation, if any, and medical expenses and complete Section 6 by checking "yes."

(2) When a request for an informal conference is received, the Commission's file is reviewed for required reports. The employer's representative must assure the following reports are in the Commission's file before the informal conference is held or it may be subject to a fine.

(a) Form 14B, if applicable; and

(b) Form 15, if applicable; and

(c) Form 17, if applicable; and

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(d) Form 20, if applicable; and

(e) All medical reports required by R.67-1301; and

(f) An authorized health care provider's report stating the claimant has reached maximum medical improvement and an impairment rating, if any; and

(g) An amputation chart, if applicable.

D. The claimant may request an informal conference by writing the Commission's Judicial Department and stating whether the parties propose to settle the claim on a Form 16, a Form 16A, or by Agreement and Final Release.

E. An informal conference may be held with less than thirty days notice to the parties. The conference shall be held at a hearing site as designated by the jurisdictional commissioner. If the parties request in writing to convene the conference in a different hearing site, all parties agree, and the letter is received before the conference hearing notice is issued, the request may be approved administratively.

F. Only the Commissioner assigned to the claim is authorized to approve a Form 16, a Form 16A, or an Agreement and Final Release.

G. When the claimant fails to appear at an informal conference, the Commission reschedules the conference.

(1) If the claimant fails to appear twice, the claim is taken from the informal conference roster and administratively dismissed.

(2) The claimant may request the Commission schedule another informal conference and the Commissioner assigned to the claim may, if a good cause is shown, allow the claimant to proceed with his or her claim.

H. If the employer's representative or an attorney, if any, fails to appear at the informal conference, the Commission reschedules the conference. The Commissioner assigned to the claim may impose on the employer's representative or an attorney, if any, the actual costs of the conference as established by the Commission.

I. If the parties fail to reach an agreement at the informal conference or the proposed Agreement and Final Release is not approved, the Commission will set the claim on the contested case hearing docket. A Form 50 or Form 52 is not required, but if filed, the opposing party must respond according to R.67-603.

J. Either party may request postponement of the informal conference by writing the Commissioner whose name appears on the informal conference notice or the Judicial Department. The Commissioner may reschedule the conference during the term the Commissioner is in the district. If the Commissioner cannot reschedule the conference during his or her term in the district, the Commission will reschedule the conference, unless otherwise provided.

67-805. Third Party Settlements.

A. The distribution of third party settlement proceeds must be filed with the Commission unless otherwise directed by a court of competent jurisdiction.

B. File the settlement documents with the Claims Department.

C. If the parties agree, third party settlements less than two thousand five hundred dollars do not need to be filed with the Commission.

D. If the claimant is not represented by an attorney, the third party settlement must be approved at an informal conference according to R.67-803B(1).

67-1001. Parties, Generally.

A. The proper parties in a claim involving an occupational disease are often a matter in dispute.

B. The claimant may request a report from the Commission of the insurers of an employer or employers at or during the period of alleged exposure. The period of alleged exposure must be provided for each employer.

67-1101. Total or Partial Loss or Loss of Use of a Member, Organ, or Part of the Body.

A. This regulation does not include injury to the many bodily systems, organs, members, and anatomical parts for which compensation is payable due to disability or serious disfigurement under Section 42-9-10 and Section 42-9-20.

B. This schedule of organs, members, and bodily parts lists prominent parts of the anatomy subject to occupational injury and is not complete. The value of an organ, member, or bodily part not included may be determined in accordance with the American Medical Association's "Guide to the Evaluation of Permanent Impairment", or any other accepted medical treatise or authority. Compensation shall be payable shall be payable for total loss, permanent partial loss, or loss of use of a member, organ, or part of the body when compensation is not otherwise payable.

C. For total loss, partial loss, or loss of use of an organ, member, or body part listed in this regulation, disability shall be deemed to continue for the minimum period specified, if applicable. In cases involving impairment and disability in excess of the minimum period specified for partial loss of or loss of use of an organ, member, or bodily part, compensation shall be payable in such proportion as disability bears to the maximum number of weeks provided in this regulation. The maximum period of compensation for a combination of injuries is the legislative criterion of five hundred weeks.

Organ, Member or Body Part	Total Loss	Partial Loss or Loss of Use
Breast	75	10-75
Breasts	250	25-250
Coccyx	10	1-10
Gall Bladder	75	10-75
Kidney	400	25-250
Lung	400	25-250
Pancreas	500	10-250
Rib	10	1 ½-10
(Maximum award of 200 weeks for total loss of 4 ribs)		
Scrotum and Testicles	350	30-300
Spleen	25	2 ½ -25
Testicle	75	10-75
Testicles	250	25-250
Tongue	500	50-500
Tooth	2	½ -2
Biliary Tract		75-400
Bladder		25-250
Brain		25-250
Bronchi or Bronchus		25-400

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Esophagus		25-400
Cervix		10-100
Clavicle		10-100
Colon		25-250
Diaphragm		25-250
Duodenum		10-250
Fallopian Tubes		10-100
Heart		25-250
Intestine, Small		10-400
Larynx		25-400
Liver		25-250
Mandible		10-100
Ovaries		10-100
Palate		25-250
Penis		25-250
Prostate		10-100
Rectum		10-250
Scapula		10-200
Skin		5-300
Spermatic Cord		10-100
Sternum		10-100
Stomach		25-250
Thyroid Gland		10-100
Ureter		10-100
Urethra		10-100
Vagina		25-250
Vulva		25-250
Nasal Passage		10-75
Olfactory Nerve		10-75
Sinus		5-30
Zygomatic Arch or Facial Nerve		
(In accordance with the AMA "Guides")		

67-1204. Reporting Attorneys Fees for approval.

A. An attorney shall report and obtain approval of any fee for services rendered in a worker's compensation claim as follows.

B. When the parties agree to a fee based on an hourly rate and/or retainer the total amount of the fee shall be reported on the Form 19, filed according to R.67-414.

C. When the parties agree to a contingent fee contract, the attorney shall report the fee by filing the original and one copy of a Form 61, Attorney Fee Petition, and an Order, along with a stamped, self-addressed envelope with the Commission's Claims Department.

D. Upon receipt of a Form 61 and Order, the Order may be signed and a copy returned to the attorney when the fee calculation complies with R.67-1205.

E. The Commissioner may amend, sign, and return a copy of the Order. If the attorney disagrees with the Amended Order, the attorney may file a motion according to R.67-1205 with the Commission's Judicial Department. The motion may be heard according to R.67-215, unless the motion requests a hearing to present testimony or evidence.

F. If the Form 61 and Order do not comply with R.67-1205, the Commissioner reviewing the Form 61 and Order shall immediately schedule a hearing to consider argument of counsel and testimony, if any.

67-1301. Medical Reports.

A. A medical practitioner or treatment facility shall furnish upon request all medical information relevant to the employee's complaint of injury to the claimant, the employer, the employer's representative, or the Commission. Payment for services rendered may be withheld from any medical practitioner or treatment facility who fails to comply with a request for this information.

B. The employer's representative shall submit to the Commission a report indicating the claimant's final rating of permanent impairment.

C. A health care facility and a health care provider may charge a fee for the search and duplication of a medical record not to exceed the fee published in the Medical Services Provider Manual.

67-1307. Rehabilitation Professionals.

A. Rehabilitation professionals are coordinators of medical rehabilitation services, including but not limited to state, private, or carrier based, whether on site, telephonic, in or out of state.

B. The role of a rehabilitation professional is to ensure the primary concern and commitment in each workers' compensation case is to advance the medical rehabilitation of the injured worker.

C. A rehabilitation professional must comply with S.C. Section 42-15-95 and R.67-1308 when communicating with a health care provider who provides examination or treatment for any injury, disease, or condition for which compensation is sought. A rehabilitation professional shall possess one of the following certifications:

- (1) Registered Nurse – RN;
- (2) Certified Rehabilitation Counselor – CRC;
- (3) Certified Registered Rehabilitation Nurse – CRRN;
- (4) Certified Disability Management Specialist – CDMS;
- (5) Certified Occupational Health Nurse – COHN; or
- (6) Certified case manager – CCM.

D. Rehabilitation professionals shall be subject to the requirements, rules, regulations, and Code of Ethics specific to their license and certification.

67-1308. Communication Between Parties And Health Care Providers.

A. A health care provider who provides examination or treatment for any injury, disease or condition for which compensation is sought under the provisions of this title may discuss or communicate an employee's medical history, diagnosis, causation course of treatment, prognosis, work restrictions, and impairments with the insurance carrier, employer, their respective attorneys or certified rehabilitation professionals or the Commission without the employee's consent.

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B. The claimant must be:

(1) Notified by the employer, carrier or its representative requesting the discussion or communication with the health care provider in a timely fashion, but no less than ten days notice unless the parties agree otherwise. Notification may be oral or in writing.

(2) Allowed to attend and participate, along with claimant's attorney, if any.

(3) Advised by the employer, carrier or its representative requesting the discussion or communication prior to the discussion or communication.

(4) Provided a copy of the written questions at the same time the questions are submitted to the health care provider and provided a copy of the response by the health care provider.

67-1402. Unqualified Self-Insured Employer, Prosecution.

A. When it appears an employer is operating in violation of this Chapter and the Act by failing to provide proof of compliance with the insurance provisions of this Chapter and the Act, the Commission shall institute an investigation of the employer and its operations.

(1) An officer of the department is authorized to conduct the investigation.

(2) The officer shall gather information necessary to make a recommendation concerning the employer's compliance with the provisions of this Chapter and the Act.

B. If the officer determines an employer has complied with the provisions of this Chapter and the Act, the department's director shall issue an administrative order dismissing the investigation.

(1) An administrative order dismissing an investigation shall not deny a claimant an opportunity to proceed with the prosecution of a claim.

(2) If an investigation is dismissed, a claimant may request a hearing by filing a Form 50 or Form 52 according to R.67-207. The hearing will be conducted according to Article 6.

(a) A Commissioner assigned to the claim shall determine the issue of jurisdiction and the underlying claim at the request of the claimant.

(b) The parties have the right to review as in other cases.

C. If the officer determines that the employer is not in compliance with the provisions of this Chapter and the Act, the officer shall issue a citation to the employer stating the officer's findings of fact and conclusions.

(1) The citation may recommend a fine as provided in this Chapter and the Act.

(2) The citation and Compliance Agreement shall be served on the employer according to R.67-213.

D. The employer shall respond to the citation within fourteen days of the date of receipt of the citation.

(1) The employer may sign the Compliance Agreement and pay the fine as proposed, if any, or request the director's review of the citation.

(2) Failure to respond to the citation within fourteen days of receipt shall result in prosecution of the employer according to R.67-1404.

E. The employer may request the director's review of a citation by writing the Commission within fourteen days of the date of receipt of the citation.

(1) The department director shall review the citation, confer with the employer and issue a written determination of the director's findings and conclusions.

(2) If the employer disputes the director's findings and conclusions, the employer may request an opportunity to appear at a hearing before a Commissioner to show cause why it is not in violation with the provisions of this Chapter and the Act.

(3) An Order and Rule to Show Cause shall be issued to the employer according to R.67-1404.

F. A Compliance Agreement is evidence of voluntary compliance with the insurance provisions of this Chapter and the Act. By signing and filing a Compliance Agreement, the employer is not required to appear at a compliance hearing. The form is an agreement to the following:

(1) The Commission's jurisdiction; and

(2) The employer should have had worker's compensation insurance during the period stated in the Compliance Agreement but did not; and

(3) The employer will comply with the insurance provisions of this Chapter and the Act, or otherwise comply with the provisions of this Chapter and the Act; and

(4) The employer will defend any worker's compensation claims brought against it; and

(5) If the claim is found compensable the employer will comply with the reporting requirements of this Chapter and the Act; and

(6) The employer will make prompt payment of a claim found compensable under the Act .

G. When a final decision concerning jurisdiction is rendered the claimant may proceed with a claim for compensation by filing a Form 50 or Form 52 as provided in R.67-207.

Fiscal Impact Statement:

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

Statement of Rationale:

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