

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

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*.

PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

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REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <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		SR34-3	Registration of Immigration Assistance Services	2/22/10	LLR
4055		SR34-3	Illegal Aliens and Private Employment	2/22/10	LLR
4058		SR34-3	Insurance Holding Company Systems	3/08/10	Department of Insurance
4059		SR34-3	South Carolina Reinsurance Facility Recoupment	3/08/10	Department of Insurance
4060		SR34-3	Life Insurance Disclosure	3/08/10	Department of Insurance
4061		SR34-3	Valuation of Investments	3/08/10	Department of Insurance
4068		SR34-4	Funeral Service Practice Act	4/08/10	Board of Funeral Service
4066		SR34-5	Long Term Care Insurance	4/21/10	Department of Insurance
4063		SR34-5	Workers' Compensation Insurance and Use of Leased Vehicles	5/12/10	Public Service Commission
4070	R175	SR34-5	Air Pollution Control Regulations and Standards	5/12/10	Department of Health and Envir Control
4083		SR34-5	Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities	5/12/10	Department of Insurance
4088		SR34-5	Annuity and Deposit Fund Disclosure	5/12/10	Department of Insurance
4080	R177	SR34-5	Hazardous Waste Management	5/12/10	Department of Health and Envir Control
4069	R165	SR34-4	Species or Subspecies of Non-game Wildlife	5/12/10	Department of Natural Resources
4085	R176	SR34-5	Air Pollution Control Regulations and Standards	5/12/10	Department of Health and Envir Control
4090	R155	SR34-4	Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	5/12/10	Department of Natural Resources
4091		SR34-5	Seeds	5/12/10	Department of Agriculture
4073		SR34-5	Definitions for Charter Bus, Equipped to Carry and Passenger	5/12/10	Public Service Commission
4078	R153	SR34-4	Uniform Real Property Recording Act	5/12/10	Secretary of State
4105	R150	SR34-4	Citrus Greening Quarantine	5/12/10	Clemson University-State Crop Pest Comm.
4106	R151	SR34-4	Phytophthora ramorum Quarantine	5/12/10	Clemson University-State Crop Pest Comm.
4097		SR34-5	Continuing Insurance Education	5/12/10	Department of Insurance
4098		SR34-5	Annual Audited Financial Reporting Regulation	5/12/10	Department of Insurance
4099		SR34-5	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
4081		SR34-5	Athletic Trainers	5/14/10	Department of Health and Envir Control
4101		SR34-6	Practice of Architecture; Increased Use of Electronic Documents	5/21/10	Board of Architectural Examiners
4103		SR34-6	Apprentice Salespersons	5/21/10	Manufactured Housing Board
4100		SR34-6	Firm Registration, Continuing Professional Education and Professional Standards	5/21/10	Board of Accountancy
4102		SR34-6	Portable Fire Extinguishers and Fixed Fire Extinguishing Systems	5/26/10	LLR - Office of State Fire Marshal
4114		SR34-6	Inspectors - Registration, Fees and Disciplinary Procedure	5/26/10	Building Codes Council
4110	R217	SR34-6	Regulation of Real Property Owned and Leased by the Dept.	5/27/10	Department of Natural Resources
4116		SR34-6	South Carolina Virtual School Program	5/28/10	State Board of Education
4117	R216	SR34-6	Requirements for Additional Areas of Certification	5/28/10	State Board of Education
4108		SR34-6	Standards for Licensing Community Residential Care Facilities	5/30/10	Department of Health and Envir Control
4121		SR34-6	Agents and Agency Licenses	6/01/10	Department of Insurance
4075		SR34-6	Requirements of Licensure in the Field of Cosmetology	6/01/10	Board of Cosmetology
4107		SR34-6	Infectious Waste Management Regulations	6/02/10	Department of Health and Envir Control
4077		SR34-7	Premises	6/20/10	Alcoholic Beverages, Beer and Wine
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
4067			Law Enforcement Officer and E-911 Officer Training & Certification	Tolled	S.C. Criminal Justice Academy
4109			Child Support Guidelines	Tolled	Department of Social Services
Permanently Withdrawn					
4072			Central Fill Pharmacies		Board of Pharmacy

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
4063	Workers' Compensation Insurance and Use of Leased Vehicles	Labor, Commerce and Industry	Judiciary
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
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
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
4081	Athletic Trainers	Medical, Military, Pub & Mun Affairs	Medical Affairs
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
4116	South Carolina Virtual School Program	Education	Education
4117	Requirements for Additional Areas of Certification	Education	Education
4108	Standards for Licensing Community Residential Care Facilities	Medical, Military, Pub & Mun Affairs	Medical Affairs
4121	Agents and Agency Licenses	Labor, Commerce and Industry	Banking and Insurance
4075	Requirements of Licensure in the Field of Cosmetology	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4107	Infectious Waste Management Regulations	Agriculture and Natural Resources	Medical Affairs
4077	Premises	Judiciary	Judiciary
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
4067	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	Judiciary
4109	Child Support Guidelines	Judiciary	Judiciary
Permanently Withdrawn			
4072	Central Fill Pharmacies	Medical, Military, Pub & Mun Affairs	Medical Affairs

Executive Order No. 2010-13

WHEREAS, on June 8, 2010, the Lee County Democratic Party held a Democratic Primary Election for the Lee County Council District 4 seat; and

WHEREAS, candidate Gordon W. Eckley (“Appellant”) contested the validity of the June 8th Democratic Election for the Lee County Council District 4 seat and requested a new election; and

WHEREAS, on June 17, 2010, the Lee County Democratic Executive Committee held a hearing, pursuant to Section 7-17-530 of the South Carolina Code of Laws (1976), as amended, and denied the Appellant’s petition for a new election; and

WHEREAS, on June 19, 2010, an appeal, seeking relief from the decision of the Lee County Democratic Executive Committee was heard before the Executive Committee of South Carolina Democratic Party (“Executive Committee”), pursuant to Section 7-17-550 of the South Carolina Code of Laws (1976), as amended; and

WHEREAS, the Executive Committee found that the Lee County Democratic Executive Committee erred in denying Appellant’s request for a new election in this race because the illegitimate votes cast using the wrong ballot cartridge totaled more than the disparity between the winner and the loser of the race; and

WHEREAS, the Executive Committee, pursuant to its authority under Section 7-17-560 of the South Carolina Code of Laws (1976), as amended, voided the Democratic Primary election held on June 8, 2010, for the Lee County Council District 4 seat; and

WHEREAS, on June 22, 2010, I received a request from the Executive Committee to set a new primary election for the Lee County Council District 4; and

WHEREAS, the Executive Committee found that Appellant’s request for a new election to be substantially related to the equitable and democratic interests of the South Carolina Democratic Party; and

WHEREAS, the Executive Committee requested that the new election be held for the part of the Bishopville-1 Precinct that is in Lee County Council District 4, in order to comply with the notice provisions in the South Carolina Code of Laws and the pre-clearance requirements of Section 5 of the Voting Rights Act of 1965; and

WHEREAS, the Executive Committee requested that only those voters who cast ballots in the June 8, 2010, primary and are registered to vote in Lee County Council District 4 be allowed to cast votes in a new election; and

WHEREAS, Section 7-13-1170 of the South Carolina Code of Laws (1976), as amended, provides “when any election official of any political subdivision of this State charged with ordering, providing for, or holding an election has neglected, failed, or refused to order, provide for, or hold the election at the time appointed, or if for any reason the election is declared void by competent authority, and these facts are made to appear to the satisfaction of the Governor, he shall, should the law not otherwise provide for this contingency, order an election or a new election to be held at the time and place, and upon the notice being given which to him appears adequate to insure the will of the electorate being fairly expressed. To that end, he may designate the existing election official or other person as he may appoint to perform the necessary official duties pertaining to the election and to declare the result.”

4 EXECUTIVE ORDERS

NOW, THEREFORE, with no actions pertaining to the request for a new election for the part of Bishopville-1 Precinct that is in the Lee County Council District 4 currently pending in the state and federal courts and pursuant to the authority vested in me by the Constitution and Statutes of the State of South Carolina, I hereby (a) order that a new primary election be held on August 31, 2010, for the Lee Country Council District 4 race in Bishopville-1 Precinct for only those voters who cast ballots on June 8, 2010, and who are registered to vote in the County Council District 4 race, subject to pre-clearance approval prior to this date by the United States Department of Justice, or at the earliest possible date and time after August 31, 2010, as is permitted by the United States Department of Justice; (b) recognize that a run-off election may be needed and should be allowed following the new primary election date in accordance with Article 1, Chapter 13, Title 7 of the South Carolina Code of Laws; and (c) designate the South Carolina State Election Commission and the applicable local election commissions to perform the necessary official duties pertaining to the election and to declare the result.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 25th DAY OF JUNE 2010.**

MARK SANFORD
Governor

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication July 23, 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 Charleston County

Purchase and installation of a sixteen (16) slice Computed Tomography (CT) scanner to be located on the 2nd floor of the Roper St. Francis West Ashley Cancer Center
 Charleston Hematology & Oncology Associates, PA
 Charleston, South Carolina
 Project Cost: \$684,425

Renovation and conversion of two (2) existing procedure rooms to two (2) operating rooms for a total of six (6) operating rooms
 Trident Surgery Center
 Charleston, South Carolina
 Project Cost: \$240,988.47

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from July 23, 2010. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

Affecting Anderson County

Construction of a sixty (60) bed nursing home that will not participate in the Medicaid (Title XIX) Program
 The Gardens at Town Creek
 Pendleton, South Carolina
 Project Cost: \$12,122,501

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

6 NOTICES

Affecting Spartanburg County

Renovation of existing space for the establishment of diagnostic cardiac catheterization services with one (1) diagnostic cardiac catheterization laboratory
Spartanburg Regional Healthcare System d/b/a the Village Hospital
Greer, South Carolina
Project Cost: \$4,065,410

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

July 23, 2010

On June 23, 2010, the Department of Health and Environmental Control published a Notice in the State Register regarding Permit Extension Joint Resolution of 2010 (also named H. 4445). The requirements of H. 4445 are currently being reviewed by the Department. The Department intends to publish an Errata to this June notice in the State Register on August 27, 2010, that will correct the original notice by adding additional information clarifying the requirements.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE

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

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

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than August 23, 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

Mid-Carolina Probe
Attn: Michael Woodward
261 Business Park Blvd, Unit 928
Columbia, SC 29203

**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 14, Standard for the Installation of Standpipe and Hose Systems, 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(A)
South Carolina Regulations 71-8300.2(G)(4)

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.

8 DRAFTING NOTICES

STATE BOARD OF EDUCATION

CHAPTER 43

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

Notice of Drafting:

The South Carolina Department of Education proposes to adopt a regulation requiring any school food authority authorized under the National School Lunch, Breakfast, or After-school Snack Programs to use the state developed template for contracting out food service operations to food service management companies. It will require the start and end dates for any food service management company contract to begin on July 1, 2011 and end on June 30, 2012.

Interested parties may submit to Todd A. Bedenbaugh, at the South Carolina Department of Education, Office of Health and Nutrition, 3710 Landmark Drive, Suite 300, Columbia, South Carolina 29204 or by e-mail at tabedenb@ed.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on August 23, 2010.

Synopsis:

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

The Office of Health and Nutrition has developed a template in collaboration with several Southeastern states for SFAs to use when contracting food service operations with food service management companies and is seen as a model which others states have requested and copied. The template contains all the required federal and state procurement standards pertaining to contracting food service operations. The federal regulations for the National School Lunch Program appear at 7 CFR Part 210 and the School Breakfast Program regulations appear at 7 CFR Part 220. As provided in 7 CFR 210.19(e), the state agency may impose additional requirements which meet or exceed the required Federal standards.

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

USDA currently requires all food service management contracts to be written for a one year period but they can be extended up to four additional one year periods. The fiscal year for all school districts and state agencies is July 1 through June 30. This regulation would also require all food service management contracts to commence on July 1, 2011 through June 30, 2012 and would and will continue annually each year. This action will also allow for continuity for all financial matters but also with regards to employee issues. In addition, the consumer price index from the United States Department of Labor is calculated in conjunction with this period. The consumer price index is the tool used to substantiate any request for increases by the food service management companies.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Section 59-24-40 (1990) and (Supp. 2000)

Notice of Drafting:

The South Carolina Department of Education proposes to amend Regulation 43-165.1, Principal Evaluation Program. Interested persons may submit their comments in writing to Mark A. Bounds, Deputy Superintendent, Division of Educator Quality and Leadership, 3700 Forest Drive, Suite 300, Columbia, South Carolina 29204 or by e-mail to mbounds@leaders.ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on August 23, 2010.

Synopsis:

Regulation 43-165.1 outlines the processes used for assisting, developing, and evaluating principals employed in South Carolina public schools. Due to changes in other South Carolina regulations governing principal preparation and certification, as well as federal programs affecting principal evaluation, the Office of School Leadership is proposing amendments to Regulation 43-165.1 (Program for Assisting, Developing, and Evaluating Principal Performance).

Legislative review of this proposal will be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-26-10 et seq. (2004), and 20 U.S.C. 6301 et seq. (2002)

Notice of Drafting:

The South Carolina Department of Education proposes to amend Regulation 43-167, Principal Induction Program. Interested persons may submit their comments in writing to Mark A. Bounds, Deputy Superintendent, Division of Educator Quality and Leadership, 3700 Forest Drive, Suite 300, Columbia, South Carolina 29204 or by e-mail to mbounds@leaders.ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on August 23, 2010.

Synopsis:

Regulation 43-167 governs the induction requirements for principals in South Carolina. Proposed amendments will refine and update Regulation 43-167 so that it continues to guide the professional development of first-year principals in South Carolina public schools.

Legislative review of this proposal will be required.

10 DRAFTING NOTICES

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-26-10 et seq. (2004), and
20 U.S.C. 6301 et seq. (2002)

Notice of Drafting:

The South Carolina Department of Education proposes to amend Regulation 43-62, Requirements for Additional Areas of Certification. Interested persons may submit their comments in writing to Mark A. Bounds, Deputy Superintendent, Division of Educator Quality and School Leadership, 3700 Forest Drive, Suite 300, Columbia, South Carolina 29204 or by e-mail to mbounds@leaders.ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on August 23, 2010.

Synopsis:

Regulation 43-62 governs the certification requirements for educators in South Carolina. Amendments to Regulation 43-62 will refine and update the regulation so that it continues to provide highly qualified educators for South Carolina public schools.

Legislative review of this proposal will be required.

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60(1) (2004), 59-26-10 et seq. (2004), and
20 U.S.C. 6301 et seq. (2002)

Notice of Drafting:

The South Carolina Department of Education proposes to amend Regulation 43-64, Requirements for Certification at Advanced Level. Interested persons may submit their comments in writing to Mark A. Bounds, Deputy Superintendent, Division of Educator Quality and School Leadership, 3700 Forest Drive, Suite 300, Columbia, South Carolina 29204 or by e-mail to mbounds@leaders.ed.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. on August 23, 2010.

Synopsis:

Regulation 43-64 governs the certification requirements for educators in South Carolina. Amendments to Regulation 43-64 will refine and update the regulation so that it continues to provide highly qualified educators for South Carolina public schools.

Legislative review of this proposal will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control is proposing to amend Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration, R. 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR) and the South Carolina Air Quality Implementation Plan (State Implementation Plan or SIP). This notice is being published to renew the revisions previously established by the September 26, 2008, Notice of Drafting published in Volume 32, Issue 9 of the South Carolina State Register, and to initiate the promulgation process to amend a different part of the same regulation. Interested persons are invited to present their views concerning these amendments in writing to Alan Hancock, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, via electronic mail at hancocam@dhec.sc.gov, or via facsimile at (803) 898-4117. To be considered, the Department must receive comments by August 23, 2010, the close of the drafting comment period.

Synopsis:

On November 29, 2005, the EPA issued a final rule in the Federal Register entitled Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard [70 FR 71612], also known as the “Phase 2 Ozone Rule,” which finalized regulations to implement the 8-hour ground-level ozone National Ambient Air Quality Standard that the EPA established in July 1997. The Department has implemented all required elements of this rule but will clarify a footnote to the Prevention of Significant Deterioration (PSD) regulations to list nitrogen oxide (NO_x) as a precursor to ozone.

On April 25, 2008, the Department published a Notice of Drafting in the South Carolina State Register to initiate revisions to Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration, R. 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR) and the SIP, in order to comply with a final rule entitled Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Removal of Vacated Elements [72 FR 32526], published in the Federal Register on June 13, 2007.

On May 16, 2008, the EPA published a final rule in the Federal Register entitled Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}) [73 FR 28321], also known as the “NSR PM_{2.5} Implementation Rule,” which finalized regulations to implement the New Source Review program for fine particulate matter (that is, particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, generally referred to as “PM_{2.5}”). The NSR PM_{2.5} Implementation Rule became effective July 15, 2008, and required states with SIP-approved PSD programs, of which South Carolina is one, to submit revised PSD programs within a 3 year transition period following the date of its publication, or by May 16, 2011. The NSR PM_{2.5} Implementation Rule included a major source threshold, significant emissions rates for direct PM_{2.5} and its presumed precursors, sulfur dioxide (SO₂) and NO_x; offset ratios for PM_{2.5}; and interpollutant trading for offsets and applicability of NSR to PM_{2.5} precursors. The NSR PM_{2.5} Implementation Rule also continued the EPA’s policy of allowing SIP-approved states to use PM₁₀ (that is, particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers) as a surrogate for PM_{2.5} in meeting the NSR requirements of the Clean Air Act, until the end of the 3 year transition period (“EPA PM₁₀ Surrogate Policy”).

On September 26, 2008, the Department published a second Notice of Drafting in the South Carolina State Register for the revisions to Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration, R. 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR) and the SIP. This second notice incorporated, among other things, the NSR PM_{2.5} Implementation Rule.

12 DRAFTING NOTICES

On April 24, 2009, the Department published a Notice of Final Regulation in the South Carolina State Register to complete the regulation development process initiated by the aforementioned Notices, except for the revisions required to incorporate the NSR PM_{2.5} Implementation Rule. The Department elected to delay these revisions for the NSR PM_{2.5} Implementation Rule, pending further guidance from the EPA, which the EPA plans to release in summer 2010.

On February 11, 2010, the EPA published a proposed rule in the Federal Register entitled Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM_{2.5}); Notice of Proposed Rulemaking To Repeal Grandfathering Provision and End the PM₁₀ Surrogate Policy [75 FR 6827]. In this action, the EPA proposed to end the EPA PM₁₀ Surrogate Policy in SIP-approved states before the end of the 3 year transition period. The EPA also sought comment on whether the technical issues that led to the EPA PM₁₀ Surrogate Policy have been resolved, and on the transition process, should the EPA decide to end the EPA PM₁₀ Surrogate Policy. The Department will continue to rely upon the EPA PM₁₀ Surrogate Policy in issuing PSD permits until the EPA finalizes all of the necessary tools and guidance.

Based on the requirements of the Phase 2 Ozone Rule [70 FR 71612] and the NSR PM_{2.5} Implementation Rule [73 FR 28321], the Department proposes to amend Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration, R. 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR) and the SIP to incorporate the provisions of the Phase 2 Ozone Rule and the NSR PM_{2.5} Implementation Rule. The Department action on this proposal may be delayed until final guidance is provided by the EPA. The Department may also propose typographical corrections and clarifications to Regulation 61-62.5, Standard No. 7 and Standard No. 7.1, as necessary. Pursuant to the Phase 2 Ozone Rule [70 FR 71612] and the NSR PM_{2.5} Implementation Rule [73 FR 28321], the proposed changes are federally mandated; therefore, pursuant to S.C. Code Ann. Section 1-23-120(H)(1), General Assembly review is not required.

DEPARTMENT OF NATURAL RESOURCES

CHAPTER 123

Statutory Authority: 1976 Code Section 50-11-2200

Notice of Drafting:

The Department of Natural Resources proposes to amend Regulation 123-40, "Hunt Units and Wildlife Management Area Regulations" and Regulation 123-51, "Turkey Hunting Rules and Seasons". The subject of the proposed action is to amend the regulations to modify existing seasons and methods and add new wildlife management areas to allow additional hunting opportunity. Any person interested may submit written comments to Breck Carmichael, Deputy Director, Wildlife & Freshwater Fisheries Division, S.C. Department of Natural Resources, Post Office Box 167, Columbia, SC 29202.

Synopsis:

These amended regulations will allow the expansion of existing seasons and methods within the current season framework to allow additional opportunity on existing and new Wildlife Management Areas. These regulations set seasons, bag limits, and methods of hunting and taking of wildlife and other restrictions on Wildlife Management Areas.

Document No. 4135

DEPARTMENT OF ARCHIVES AND HISTORY

CHAPTER 12

Statutory Authority: 1976 Code Sections 4-9-195 and 5-21-140

- 12-120. Definitions
- 12-121. Local Governing Body Certification
- 12-122. Designation of Property as Historic
- 12-123. Criteria for Designation
- 12-124. Review of Rehabilitation Work
- 12-125. Standards for Rehabilitation
- 12-126. Delegation of Authority to Review Rehabilitation Work

Preamble:

The Department of Archives and History (Department) proposes to amend its regulations regarding the enabling legislation for Rehabilitation of Designated Historic Buildings to bring the regulations into conformance with the revised law. Additionally, the Department seeks to clarify definitions and the process for review.

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

Section-by-Section Discussion

12-120. Definitions. This regulation is being amended to delete definitions that are no longer required under the revised law and to clarify the definition of Historic Property.

12-121. Local Governing Body Certification. This regulation is being amended to bring the language into conformance with the revised law and remove repetitive language.

12-122. Designation of Property as Historic. This regulation is being amended to bring the language into conformance with the revised law.

12-123. Criteria for Designation. This regulation is being amended to clarify the assistance available from the Department to the local governing body.

12-124. Review of Rehabilitation Work. This regulation is being amended to bring the language into conformance with the revised law. The amendment also clarifies the processes for application, review, and appeal.

12-125. Standards for Rehabilitation. This regulation remains unchanged.

12-126. Delegation of Authority to Review Rehabilitation Work. This regulation is being deleted because it does not apply under the revised law.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to Elizabeth M. Johnson, Deputy State Historic Preservation Officer, South Carolina Department of Archives and History, 8301 Parklane Road, Columbia, South Carolina 29223. To be considered, comments must be received no later than 4:30 pm, August 27, 2010. The Archives and History Commission has scheduled a public hearing on September 10, 2010 at 11am in the South Carolina Archives and History Center, 8301 Parklane Road, Columbia, South Carolina 29223.

14 PROPOSED REGULATIONS

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness was determined pursuant to S.C. Code Ann. Section 1-24-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATIONS:

SC Code of Regulations 12-120. Definitions

SC Code of Regulations 12-121. Local Governing Body Certification

SC Code of Regulations 12-122. Designation of Property as Historic

SC Code of Regulations 12-123. Criteria for Designation

SC Code of Regulations 12-124. Review of Rehabilitation Work

SC Code of Regulations 12-125. Standards for Rehabilitation (unchanged)

SC Code of Regulations 12-126. Delegation of Authority to Review Rehabilitation Work

Purpose: The purpose of amending Regulations 12-120 through 12-124, retaining Regulation 12-125 unchanged, and deleting Regulation 12-126 is to bring the language into conformance with revised law. These amendments remove unnecessary definitions and clarify the definition of Historic Property to include historic outbuildings and exclude non-historic buildings. These amendments allow the local governing body to designate an agency or department of that government to carry out the duties of the program; clarify that the special assessment shall not apply to non-historic buildings; and provide parameters for user fees if included in the implementing ordinance of the local governing body. These amendments clarify the steps and criteria for designating a building historic. These amendments clarify the type of support that the Department provides to a local governing body electing to establish this program. These amendments clarify the processes for application, review, and appeal of rehabilitation work. These amendments delete Regulation 12-126 - Delegation of Authority to Review Rehabilitation Work because the review authority is clearly spelled out in the revised law.

Legal Authority: S.C. Code Sections 4-9-195 and 5-21-140.

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

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

The amendment of Regulations 12-120 through 12-124, retaining Regulation 12-125 unchanged, and deleting Regulation 12-126 provide language that is consistent with the revised law allowing more local control and flexibility in implementing this local incentive program. These amendments also streamline the application, review, and approval processes for the applicants.

DETERMINATION OF COSTS AND BENEFITS:

Although the costs related to the proposed changes in the Department's regulations are minimal, the benefits include regulations that allow the local governing body to utilize more local control, streamline the process, and have flexibility in setting up the local incentive program.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

The regulations will have no effect on the environment or public health if they are not implemented.

Statement of Rationale:

The purpose of amending Regulations 12-120 through 12-124, retaining Regulation 12-125 unchanged, and deleting Regulation 12-126 is to bring the language into conformance with the revised law. The proposed regulations allow the local governing body to utilize more local control, streamline the process, and have flexibility in setting up a local incentive program.

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. 4136
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-7-250 (2002)

61-84. Standards for Licensing Community Residential Care Facilities

Preamble:

The Department proposes to revise the regulation to (1) increase licensing fees and (2) address fire-related protections in community residential care facilities that are necessary to update the current regulation's structural standards, *i.e.*, sprinkler systems.

A Notice of Drafting for this proposed revision was published in the *State Register* on April 23, 2010. Legislative review will be required.

Discussion of Proposed Revisions:

(1) Revisions at Section 103.J address licensing fees (increasing to \$20 per licensed bed incrementally over a three-year period, an initial license fee based on the number of beds to be licensed, and an initial bed increase fee based on the number of increased beds to be licensed.)

(2) Revisions at Sections 2202, 2203.A, and 2714.B address fire-related protections regarding sprinkler systems and fire alarm systems.

Notice of Staff Informational Forum and Public Comment Period:

The staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff-conducted informational forum August 26, 2010, at 1:30 p.m. in first floor McNeely Conference room in the Heritage Building at 1777 St. Julian Place, Columbia, South Carolina.

16 PROPOSED REGULATIONS

The purpose of the forum is to answer questions, clarify any issues, and receive oral or written public comments from interested persons on the proposed amendment of R.61-84.

Interested persons are also provided an opportunity to submit written comments on the proposed regulations during a public comment period by writing to Nancy E. Maertens, Director, Division of Health Licensing, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 4:00 p.m. on August 26, 2010, the close of the public comment period.

Copies of the proposed regulation revision for public notice and comment may be obtained by contacting Nancy Maertens at the above address. A copy may also be obtained on the Department's Regulatory Information Internet Site at <http://www.scdhec.gov/administration/regs/> in its DHEC Regulation Development Update. To access this document, click on the Update, then the Health Licensing category, then scan down for this proposed amendment.

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

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed revision of R.61-84 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting October 14, 2010. The public hearing is to be held in Room 3420 (Board Room) of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. Please use the front entrance to the building facing Bull Street. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and, as a courtesy, are asked to provide written copies of their presentation for the record.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Regulation 61-84, Standards for Licensing Community Residential Care Facilities.

Purpose: The purpose of the proposed regulation is to (1) increase licensing fees and (2) to fire-related protections regarding sprinkler systems and fire alarm systems.

Legal Authority: The legal authority for R.61-84 is S.C. Code Ann. Section 44-7-250 (2002).

Plan for Implementation: The proposed revision will take effect upon publication in the *State Register* following approval by the Board and the S.C. General Assembly. The proposed revision will be implemented by providing the regulated community with copies of the regulation, and enforced through inspections by the Department.

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

(1) The regulation was last amended to increase licensing fees July 27, 2001. Since that time, there have been increases in costs that have necessitated the amendment of these regulations in order to make fees more up-to-date and relatively commensurate with the cost of enforcing the regulations.

(2) Also, there have been changes in national construction standards and growing concerns over the safety of community residential care facilities by affording its residents greater fire-related protections that make it necessary to update the current regulation's structural standards, *i.e.*, sprinkler systems and fire alarm systems.

DETERMINATION OF COSTS AND BENEFITS:

(1) Costs to the Department:

Processing applications for the community residential care facility licensing program requires considerable commitment of the Department's fiscal resources. Inflation has increased the costs associated with inspections, investigations, processing licenses, and travel. Program costs have been incurred for increased confidentiality requirements of Department records, all contributing to an overall increase in costs to run an effective program. The anticipated growth of elderly citizens needing community residential care in South Carolina will increase the demands on Department staff and resources. In addition, in expanding its enforcement of the regulation, the Department has increased its onsite consultation efforts to foster regulatory compliance and such activity is an added cost. Without the increase in licensing fees, the program's ability to continue service to the state's community residential care facility providers and residents in a timely, effective and efficient manner may be compromised. Community residential care facility fees have not increased since 2001. Since FY 1999, the fees have generated less money than needed to operate the program. The proposed fee increase from \$10 per licensed bed to \$20 per licensed bed incrementally over a three-year period, an initial licensing fee based on the number of beds licensed, and an initial fee for licensed bed increases based on the number of increased beds to be licensed, is not excessive on a per license basis. The program remains under-funded until such time as a fee increase is authorized.

(2) Costs to the Regulated Community:

For existing facilities that comply with Sections 2202.A and 2203.A, and have a detailed written evacuation plan that assures all residents are capable of evacuating the building within eight (8) minutes, as demonstrated to the Department, there are no expected costs to be incurred. Existing facilities that cannot demonstrate that all residents are capable of evacuating the building within the eight (8) minute time-period will be required to install a NFPA compliant automatic sprinkler system.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment. The regulation revision will promote public health by updating standards for regulating community residential care facilities.

18 PROPOSED REGULATIONS

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

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

(2) In addition, if the regulation revision is not implemented to specifically address changes in structural standards for greater fire-related protections, the level of safety for vulnerable adults residing in community residential care facilities will be compromised.

Statement of Rationale:

Department staff determined during its review of R.61-84 that it was appropriate to revise the regulation. R.61-84 was last amended to increase licensing fees in 2001. Since that time, fees have generated less money than needed to operate the program. Without an increase in licensing fees, the program's ability to continue the effective and efficient oversight of community residential care facilities may be compromised. Additionally, changes in national construction standards and increased concerns over the safety of vulnerable adults residing in community residential care facilities have focused attention on greater fire-related protections, *i.e.*, sprinkler system requirements for these facilities. See the Statement of Determination of Need and Reasonableness above for more information regarding the factors influencing the Department staff decision to revise the regulation.

Text:

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

Document No. 4137
PUBLIC SERVICE COMMISSION
CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140 (Supp. 2008)

103-331. Customer Deposits
103-336. Deposit Retention

Preamble:

The Public Service Commission of South Carolina (Commission) is amending Regulation 103-331 (Customer Deposits) to delete references to "thirty-day" arrears to reflect current billing practices of electric utilities. For example, some electric bills are due within twenty-five days from the date of the bill. Hence, references to "thirty-day" arrears in Regulation 103-331 do not reflect the current billing practices of electrical utilities. Also, Regulation 103-331 is amended to allow an electrical utility to require a deposit from a non-residential customer when such customer or its parent company is experiencing financial difficulties. Also, Regulation 103-331 is amended to make certain grammatical changes.

Regulation 103-336 (Deposit Retention) is amended to delete references to "thirty-day" arrears to reflect current billing practices of electrical utilities. Further, this Regulation is amended to state an electrical utility is

not required to refund a deposit if a non-residential customer or its parent company is experiencing financial difficulties.

During a hearing conducted before the Commission regarding the partial waiver of Regulations 103-331 and 103-336, a utility employee witness testified 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. For these type 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, and the Commission approved, 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. Also, utility internal credit risk rating criteria to determine a non-residential customer's credit worthiness and to assess whether a customer should pay a deposit helps the utility avoid losses and subsequent write-offs to uncollectible accounts. 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."

The Notice of Drafting regarding these regulations was published on May 28, 2010 in the *State Register*.

Section-by-Section Discussion

103-331. Customer Deposits. This section is amended to delete references to "thirty-day" arrears and to allow an electrical utility to require a deposit from a non-residential customer or its parent company who is experiencing financial difficulties based on internal credit risk rating criteria. This section is also amended to make certain grammatical changes.

103-336. Deposit Retention. This section is amended to delete references to "thirty-day" arrears and to state an electrical utility is not required to return a deposit if a non-residential customer or its parent company is experiencing financial difficulties.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2010-173-E. To be considered, comments must be received no later than 4:45 p.m. on September 1, 2010. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Tuesday, October 26, 2010, at 2:00 p.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

103-331. Customer Deposits.

103-336. Deposit Retention.

20 PROPOSED REGULATIONS

Purpose: The purpose of the proposed amendments to Regulations 103-331 and 103-336 is to delete language that reflects outdated practices of electrical utilities. Also, Regulations 103-331 and 103-336 are amended to allow electrical utilities to require deposits from non-delinquent non-residential customers who are experiencing financial difficulties. Deposits from these type customers will help mitigate the utility's risk of loss. Regulation 103-336 is amended to allow an electrical utility to keep a non-residential customer's deposit if this customer is experiencing financial difficulties. Longer retention of a non-residential customer's deposit will also help mitigate the utility's risk of loss.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2008).

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

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

The proposed amendments to Regulations 103-331 and 103-336 are needed and are beneficial because the proposed amendments reflect updated practices of electrical utilities. Also, the proposed amendments mitigate the electrical utility's risk of loss. This is important because when non-residential customers do not pay for services they receive, other customers can potentially pay for this loss instead of the customer who received the benefit through the consumption of electricity.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Commission's regulations are minimal, the benefits include amending regulations to reflect current practices and to mitigate the electrical utility's risk of loss for non-residential customers who could potentially fail to pay for consumed electricity.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

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

Statement of Rationale:

The purpose of amending Regulations 103-331 and 103-336 is to update these Regulations to reflect current utility practices. Also, the proposed amendments allow an electrical utility to require a non-residential customer to post a deposit and retain such deposit for longer than two years when this customer is experiencing financial difficulty. An electrical utility's loss is mitigated with this amended provision. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

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

Document No. 4138

PUBLIC SERVICE COMMISSION

CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140 (Supp. 2008)

103-607. Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms

Preamble:

The Public Service Commission of South Carolina (Commission) seeks to amend Regulation 103-607 by applying the provisions of this Regulation to all telephone utilities who provide retail residential local exchange services. With this modification, Regulation 103-607 should be amended to delete any reference to prepaid local exchange services and advance payments. Additionally, Regulation 103-607 will be amended to provide that the Office of Regulatory Staff should receive a copy of any bond or other security mechanism that is filed with the Commission. Therefore, this amended Regulation will apply to all telephone utilities who provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in South Carolina.

The Notice of Drafting regarding these regulations was published on May 28, 2010 in the *State Register*.

Section-by-Section Discussion

103-607. This section is being amended to delete any reference to prepaid local exchange services and advance payments. Also, this regulation is being amended to provide that the Office of Regulatory Staff should receive a copy of any bond or other security mechanism that is filed with the Commission.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2007-400-C. To be considered, comments must be received no later than 4:45 p.m. on September 1, 2010. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Tuesday, October 26, 2010, at 10:30 a.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

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

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Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION:

103-607. Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms.

Purpose: The language of Regulation 103-607 currently requires certain telephone utilities who provide prepaid local exchange services to file a bond or other security mechanism with the commission and the ORS. The proposed revisions to Regulation 103-607 broaden the scope of Regulation 103-607 by expanding the application of this Regulation to all telephone utilities who provide retail residential local exchange services and who have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. The proposed amendments also delete references to advance payments and prepaid payments and require bonds or other security mechanisms to be filed with the commission and a copy provided to the ORS.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2008).

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

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

The proposed amendments to Regulation 103-607 are needed and are beneficial to the public because telephone utilities who meet certain criteria will have to post a security mechanism with the commission. These amendments are beneficial to the public because if a telephone utility ceases providing service to customers, the commission may order all or part of any bond or security mechanism forfeited. Hence, this process allows for the customer to be made whole if a customer pays for service and does not receive such service from the telephone utility.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Commission's regulations are minimal, the benefits include the amendment of a regulation that provides protection for customers who pay for service they do not receive.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

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

Statement of Rationale:

The purpose of amending Regulation 103-607 is to broaden the scope of application of this regulation to all utilities who provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

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

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Document No. 4077

ALCOHOLIC BEVERAGES, BEER AND WINE

CHAPTER 7

Statutory Authority: 1976 Code Sections 12-4-320 and 61-2-60

7-202, 7-401.1, 7-700. Premises

Synopsis:

The South Carolina Department of Revenue is promulgating Regulation 7-202 to revise the definition of “premises” for purposes of licenses for beer, wine, and liquor issued pursuant to Title 61, Chapters 4 and 6. The Department of Revenue is also repealing Regulations 7-401.1 and 7-700, which contain the current definitions of “premises.” On repeal, Regulation 7-401.1 will be designated as “Reserved.”

Regulation 7-202, which includes three subsections, will provide a unified definition of premises, with general guidelines appropriate for all license holders and specific guidelines appropriate for the premises of nonprofit organizations licensed to sell alcoholic liquor by the drink. These general and specific guidelines are consistent with other regulations or longstanding Department of Revenue policy, or both. In addition, a subsection addressing certain facilities that may constitute the premises for a license to sell liquor by the drink, including golf courses, fishing piers, and resort complexes, will incorporate and make public longstanding Department of Revenue policy as modified in accordance with recent amendments to S.C. Code Ann. Sections 61-6-20(2) and 61-6-1610.

With the promulgation of Regulation 7-202, Regulations 7-401.1 and 7-700, which contain the current definitions of premises, will become obsolete. Therefore, the South Carolina Department of Revenue is proposing to repeal Regulations 7-401.1 and 7-700. On repeal, Regulation 7-401.1 will be designated as “Reserved.”

Instructions:

Revise the definition of “premises” for purposes of licenses for beer, wine, and liquor issued pursuant to Title 61 Chapters 4 and 6. Repeal Regulations 7-401.1 and 7-700, which contain the current definitions of “premises”. Once repealed Regulation 7-401.1 will be designated as “Reserved”.

Text:

7-202. Premises.

The following provisions apply with respect to licenses issued pursuant to Title 61. The purpose of these provisions is the determination of the extent of the physical place where a business or entity that has been approved to hold a license undertakes the privileges and responsibilities associated with that license. Eligibility to hold such licenses is outside the scope of these provisions, except with respect to licenses for satellite facilities as provided in Section 7-202.2.D.

7-202.1. General Requirements – All Licenses.

A. Unless otherwise limited by statute or regulation, as used in Title 61, "premises" means all of the buildings and grounds that are both (1) subject to the direct control of the license holder and (2) used by the license holder to conduct its business.

B. For purposes of establishing the premises:

(1) The license holder's direct control of buildings and grounds may be shown by any of the following: (a) a deed or lease conveying to the license holder an appropriate interest that includes the premises; (b) a writing from a local governmental jurisdiction giving the license holder the right to use and the duty to maintain an area owned or controlled by the local governmental jurisdiction; (c) an enforceable written contract granting the license holder a right to use the premises.

(2) A presumption arises that the buildings and grounds described with particularity in the license application, as required by Regulation 7-200.1(B), are used by the license holder to conduct its business.

(3) The premises in its entirety, or any area within the premises, may be subject to conditions or restrictions or both imposed pursuant to Code Section 61-2-80.

(4) The premises for which a license is held may include more than one tract of land or building, unless otherwise limited by statute or regulation. For more than one tract of land to be included in the licensed premises, the tracts must be contiguous. For more than one building to be included in the licensed premises, all buildings must be situated on the same tract of land or contiguous tracts of land.

(5) The premises for which a license is held must be a separate designated location of a business in accordance with Code Section 61-2-140(C). Two or more licenses of the same type must not be issued for the same premises, except as provided in Section 7-202.2.D.

(6) As provided in Code Section 61-2-140(C), a separate license is required for each separate location of a business. The Department will determine whether separate licenses are required using factors including but not limited to (a) whether the business operates at more than one street address; (b) the number of retail sales tax licenses required; (c) whether the public would perceive the business to be operating at one location or at more than one location; and (d) whether there is one location or more than one location of the same business under one roof, based on factors including, but not limited to, entrances, utilities, employees, HVAC systems, public perception, lease contracts, and partitioning as the result of walls, common areas and areas set aside for the conduct of other enterprises, whether unlicensed or separately licensed.

7-202.2. Specific Facilities – Alcoholic Liquor by the Drink.

A. In addition to the provisions of Regulations 7-202 and 7-202.1 (unless otherwise limited or restricted) the premises for licenses for alcoholic liquor by the drink for on-premises consumption for the following specific facilities include the criteria below.

B. Golf courses: All of the buildings and grounds of a golf course that are under the direct control of a license holder located at a golf course are presumed to be used by the license holder to conduct its business, including but not limited to the land on which the course is laid out for the playing of the game, the golf cart rentals area, the food and beverage service areas, and the pro shop or other retail space.

C. Fishing piers: A fishing pier, including the entire length and width of the pier, under the exclusive and direct control of a license holder is presumed to be used by the license holder to conduct its business.

D.(1) Resort Complexes: For purposes of determining the premises of a resort complex, a presumption arises that all buildings and grounds within the resort complex tract are used in the resort complex license holder's business.

(2) A "resort complex" must be an enterprise that meets all of the following criteria:

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(a) Either as a single business or a group of businesses under identical ownership, the enterprise must operate facilities that include, at a minimum, the following: (i) “furnishing lodging” as defined in Code Section 61-6-20(4) and (ii) being “bona fide engaged primarily and substantially in the preparation and serving of meals” as defined in Code Sections 61-6-20(2) and 61-6-1610 and (iii) providing a substantial recreational facility.

(b) One of the facilities described in item (a) above must operate under a license to serve alcoholic liquor by the drink issued under Code Section 61-6-1610. The license holder for such facility shall be designated as the “resort complex license holder.” The first held license will be known as the “primary resort complex license.”

(c) The recreational facility described in item (a) above must operate solely within the resort complex tract. “Resort complex tract” means either a single tract of land or contiguous tracts of land (without regard to whether the contiguous space is interrupted by any intervening dedicated road or public right-of-way) which must be under the direct control of the enterprise.

(3) The resort complex license holder may obtain licenses for satellite facilities in the resort complex tract if the following conditions are met:

(a) The resort complex license holder and the satellite facility must be under identical ownership and control.

(b) The application for a satellite facility license must contain the name of the resort complex license holder, the date the primary resort complex license was issued, and any other information required by the Department.

(c) All satellite facilities must meet the distance requirements set forth in Code Section 61-6-120.

(d) The resort complex license holder and all satellite facilities, when viewed together, must maintain the character of a business that is engaged primarily and substantially in the preparation and serving of meals or furnishing lodging in accordance with Code Sections 61-6-20(2) and 61-6-1610 or with Code Section 61-6-20(4).

(e) In acquiring a license for any satellite facility, the resort complex license holder must agree to the following conditions: (i) any suspension or revocation of any resort complex license will result in suspension or revocation of all resort complex licenses; and (ii) termination of the primary resort complex license will result in termination of all satellite facility licenses. “Resort complex license” means any license issued for a facility located on the resort complex tract, whether the primary resort complex license or a satellite facility license.

7-202.3. Restrictions on the Premises of Nonprofit Organizations Licensed to Sell Alcoholic Liquor by the Drink.

A. The premises of a nonprofit organization must be separate from the premises of any business operation, including business establishments licensed to sell alcoholic liquor by the drink.

B. The premises of a nonprofit organization will be deemed separate if the organization has its own address and separate entrance, and is not connected with another business premises by common doorways or passageways, whether interior or exterior.

7-401.1. **Reserved.**

7-700. **Repealed.**

Fiscal Impact Statement:

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

Statement of Rationale:

Regulation 7-202 will provide a unified definition of premises, with general guidelines appropriate for all license holders and specific guidelines appropriate for the premises of nonprofit organizations licensed to sell alcoholic liquor by the drink. The general and specific guidelines are consistent with other regulations or longstanding Department of Revenue policy, or both. In addition, a subsection addressing certain facilities that may constitute the premises for a license to sell liquor by the drink, including golf courses, fishing piers, and resort complexes, will incorporate and make public longstanding Department of Revenue policy as modified in accordance with recent amendments to S.C. Code Ann. Sections 61-6-20(2) and 61-6-1610. With the promulgation of Regulation 7-202, Regulations 7-401.1 and 7-700, which contain the current definitions of premises, will become obsolete. Therefore, the South Carolina Department of Revenue is proposing to repeal Regulations 7-401.1 and 7-700. On repeal, Regulation 7-401.1 will be designated as "Reserved."

The promulgation of Regulation 7-202 and repeal of Regulations 7-401.1 and 7-700 are needed to provide a unified definition of premises with general and specific guidelines, thus ensuring that longstanding Department of Revenue policies are made public and brought up to date in accordance with recent statutory amendments.

Document No. 4134

DEPARTMENT OF LABOR, LICENSING AND REGULATION**CHAPTER 71**

Statutory Authority: 1976 Code Section 41-15-210

Article I, Subarticle 6 and Subarticle 7

Occupational Safety and Health Standards

Revisions to Occupational Exposure to Hexavalent Chromium &

Revisions to Safety Standards for Steel Erection in Construction

June 28, 2010

The South Carolina Department of Labor, Licensing and Regulation, Division of Labor, Office of Occupational Safety and Health, hereby promulgates the following changes to South Carolina Regulations:

In Subarticle 6 (General Industry and Shipyard Employment):

Revisions to Sections 1910.7, 1910.8, 1910.9, 1910.1000, and 1910.1026, as amended in FEDERAL REGISTER, Volume 75, No. 51, pp.12681 – 12686, dated March 17, 2010.

In Subarticle 7 (Construction):

Revisions to Sections 1926.1126 and 1926.754 as amended in FEDERAL REGISTER, Volume 75, No. 94, pp.27428 – 27429, dated May 17, 2010.

Copies of these final regulation changes can be obtained or reviewed at the South Carolina Department of Labor, Licensing and Regulation during normal business hours by contacting the OSHA Standards Office at (803) 896-5811 or on the OSHA website at www.OSHA.gov.