

## **SOUTH CAROLINA STATE REGISTER DISCLAIMER**

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# SOUTH CAROLINA STATE REGISTER

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STEPHEN T. DRAFFIN, DIRECTOR  
DEIRDRE BREVARD-SMITH, EDITOR

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

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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.

## **2011 PUBLICATION SCHEDULE**

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made by **5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

## **REPRODUCING OFFICIAL DOCUMENTS**

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## **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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**Deirdre Brevard-Smith, Editor**  
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**Telephone: (803) 212-4500**  
**Fax: (803) 212-4501**

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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
4126	SR35-5		South Carolina Pesticide Control (R.27-1070, R.27-1077, and R.27-1078 only)	5/11/11	Clemson University-State Crop Pest Comm.
4130	SR35-5		Air Pollution Control Regulations and Standards: Standards of Performance for Asbestos Projects	5/11/11	Department of Health and Envir Control
4153	SR35-5		SC Safe Home Program Wind Inspectors and Contractors	5/11/11	Department of Insurance
4141	SR35-5		Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	5/12/11	Department of Natural Resources
4135	SR35-5		Rehabilitation of Designated Historic Buildings	5/12/11	Department of Archives and History
4163			Board of Landscape Architectural Examiners	5/21/11	Board of Landscape Architectural Exam
4138			Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms	5/24/11	Public Service Commission
4156			Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	5/24/11	State Board of Education
4158			Requirements for Certification at the Advanced Level	5/24/11	State Board of Education
4145			South Carolina HOPE Scholarship	5/24/11	Commission on Higher Education
4146			LIFE Scholarship & LIFE Scholarship Enhancement	5/24/11	Commission on Higher Education
4147			Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions	5/24/11	Commission on Higher Education
4148			South Carolina Need-based Grants Program	5/24/11	Commission on Higher Education
4149			Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	5/24/11	Commission on Higher Education
4137			Customer Deposits and Deposit Retention	5/24/11	Public Service Commission
4159			Sentencing Reform	5/26/11	Dept. of Probation, Parole and Pardon Ser
4169			Unemployment Insurance Reform (Updates to Article 1)	6/01/11	Department of Employment and Workforce
4170			Unemployment Insurance Reform (Updates to Article 2)	6/01/11	Department of Employment and Workforce
4171			Unemployment Insurance Reform (Updates to Article 3)	6/01/11	Department of Employment and Workforce
4168			Perpetual Care Cemetery Board	6/01/11	SC Perpetual Care Cemetery Board
4164			Child Labor	6/02/11	Division of Labor
4161			Water Classifications and Standards	1/24/12	Department of Health and Envir Control
4162			Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	1/26/12	Environmental Certification Board
4157			Requirements for Additional Areas of Certification	1/30/12	State Board of Education
4174			Hazardous Waste Management Regulations	2/21/12	Department of Health and Envir Control
4175			Hazardous Waste Management Planning	2/21/12	Department of Health and Envir Control
4176			Capital Expenditure Reviews Under Section 1122, Social Security Act	2/21/12	Department of Health and Envir Control
4180			Minimum Standards for Licensing Chiropractic Facilities	2/21/12	Department of Health and Envir Control
4182			Licensure for the Savannah River	3/19/12	Commissioners of Pilotage
4183			International Residential Code	3/19/12	LLR-Building Codes Council
4184			Update of International and National Codes	3/19/12	LLR-Building Codes Council
4179			Electronic Equipment Collection and Recovery	3/24/12	Department of Health and Envir Control
<b>Committee Request Assessment Report</b>					
4132			Environmental Protection Fees (Radioactive Material Licenses Fees)	Tolled	Department of Health and Envir Control
4139			Environmental Protection Fees (Drinking Water Fees)	Tolled	Department of Health and Envir Control
<b>Resolution Introduced to Disapprove</b>					
4126			South Carolina Pesticide Control (R.27-1079 only)	Tolled	Clemson University-State Crop Pest Comm.
<b>Permanently Withdrawn</b>					
4154			Food and Cosmetics		Department of Agriculture

## 2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

In order by General Assembly review expiration date  
 The history, status, and full text of these regulations are available on the  
 South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4126	South Carolina Pesticide Control (R.27-1070, R.27-1077 and R.27-1078 only)	Agriculture and Natural Resources	Agriculture and Natural Resources
4130	Air Pollution Control Regulations and Standards; Standards of Performance for Asbestos Projects	Agriculture and Natural Resources	Agriculture and Natural Resources
4153	SC Safe Home Program Wind Inspectors and Contractors	Labor, Commerce and Industry	Banking and Insurance
4141	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
4135	Rehabilitation of Designated Historic Buildings	Medical, Military, Pub & Mun Affairs	Judiciary
4163	Board of Landscape Architectural Examiners	Labor, Commerce and Industry	Labor, Commerce and Industry
4138	Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms	Labor, Commerce and Industry	Judiciary
4156	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	Education and Public Works	Education
4158	Requirements for Certification at the Advanced Level	Education and Public Works	Education
4145	South Carolina HOPE Scholarship	Education and Public Works	Education
4146	LIFE Scholarship & LIFE Scholarship Enhancement	Education and Public Works	Education
4147	Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions	Education and Public Works	Education
4148	South Carolina Need-based Grants Program	Education and Public Works	Education
4149	Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	Education and Public Works	Education
4137	Customer Deposits and Deposit Retention	Labor, Commerce and Industry	Judiciary
4159	Sentencing Reform	Judiciary	Corrections and Penology
4169	Unemployment Insurance Reform (Updates to Article 1)	Labor, Commerce and Industry	Labor, Commerce and Industry
4170	Unemployment Insurance Reform (Updates to Article 2)	Labor, Commerce and Industry	Labor, Commerce and Industry
4171	Unemployment Insurance Reform (Updates to Article 3)	Labor, Commerce and Industry	Labor, Commerce and Industry
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4164	Child Labor	Labor, Commerce and Industry	Labor, Commerce and Industry
4161	Water Classifications and Standards	Agriculture and Natural Resources	Agriculture and Natural Resources
4162	Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	Agriculture and Natural Resources	Labor, Commerce and Industry
4157	Requirements for Additional Areas of Certification	Education and Public Works	Education
4174	Hazardous Waste Management Regulations	Agriculture and Natural Resources	Medical Affairs
4175	Hazardous Waste Management Planning	Agriculture and Natural Resources	Medical Affairs
4176	Capital Expenditure Reviews Under Section 1122, Social Security Act	Ways and Means	Medical Affairs
4180	Minimum Standards for Licensing Chiropractic Facilities	Medical, Military, Pub & Mun Affairs	Medical Affairs
4182	Licensure for the Savannah River	Agriculture and Natural Resources	Labor, Commerce and Industry
4183	International Residential Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4184	Update of International and National Codes	Labor, Commerce and Industry	Labor, Commerce and Industry
4179	Electronic Equipment Collection and Recovery	Agriculture and Natural Resources	Medical Affairs
<b>Committee Request Assessment Report</b>			
4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
4139	Environmental Protection Fees (Drinking Water Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
<b>Resolution Introduced to Disapprove</b>			
4126	South Carolina Pesticide Control (R.27-1079 only)	Agriculture and Natural Resources	Agriculture and Natural Resources
<b>Permanently Withdrawn</b>			
4154	Food and Cosmetics	Medical, Military, Pub & Mun Affairs	Agriculture and Natural Resources

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

(Bureau of Air Quality Notice #11-033-GCM-RE)

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

The South Carolina Department of Health and Environmental Control (DHEC) is proposing to renew the general air pollution operating permits for Concrete Plants. Interested persons may review the materials drafted and maintained by DHEC for these permits and submit written comments by 5:00 p.m. on June 27, 2011, to Karen Lee at SC DHEC, Engineering Services Division, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201 or by e-mail at: [leeka@dhec.sc.gov](mailto:leeka@dhec.sc.gov). This public notice is being published in the *State Register* on May 27, 2011, and may also be viewed, along with the draft permits and Statement of Basis, through June 27, 2011, on DHEC's website: <http://www.scdhec.gov/environment/baq/publicnotice.asp>.

Where there is a significant amount of public interest, DHEC may hold a public hearing to receive additional comments. If a public hearing is scheduled, notice will be given in the *State Register* and local newspapers thirty (30) days in advance. Public hearing requests can be made in writing or by e-mail to Karen Lee at the address or e-mail above. All comments received by June 27, 2011, will be considered when making a decision to approve, disapprove, or modify the draft permits.

If you have questions concerning the draft permits, please contact Christopher Hardee at (803) 898-4123. A final review request may be filed after the permit decision has been made. Information regarding final review procedures is available from DHEC's legal office by calling (803) 898-3350.

Synopsis:

The purpose of a general permit is to cover a large number of facilities that have similar operations. Such permits limit a facility's potential to emit below major source thresholds for the Title V permit program and contain conditions to assure that these facilities are operated as non-major sources.

DHEC has examined concrete plants and has concluded that the general permits, as proposed, are consistent with state and federal air pollution regulations.

Once a general permit is issued, any eligible facility may request coverage under that permit. DHEC will maintain a list of those facilities that receive authorization to operate under a general permit.

Concrete Plants: For purposes of this permit, are comprised as one or any combination of the following: sand and aggregate storage, sand and aggregate transfer, cement and cement supplement loading, weigh hopper loading, truck loading, central mixer loading, pug mixer loading, emission control systems, boiler(s) of less than 10 million British Thermal Units (BTU) per hour, or other sources as approved by the Department.

## 4 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication May 27, 2011, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

#### Affecting Beaufort County

Construction of a medical office building (MOB) for the relocation and expansion of outpatient services to include medical imaging services (including diagnostic x-ray, digital mammography, bone density, ultrasound, and a new CT unit and new nuclear medicine camera); pediatric rehab services (including physical, occupational and speech therapies); laboratory services and cardiopulmonary services (including new EKG and cardiac stress equipment)

Bluffton Outpatient Center  
Bluffton, South Carolina  
Project Cost: \$17,384,465

Establishment of a home health agency restricted to serve Beaufort County  
CarePro Home Health - Beaufort  
Columbia, South Carolina (location in Beaufort to be determined)  
Project Cost: \$119,400

Establishment of a home health agency restricted to serve Beaufort County  
Community Health, Inc.  
Rocky Mount, North Carolina (location to be determined)  
Project Cost: \$74,819

Establishment of a home health agency restricted to serve Beaufort County  
Lowcountry Nursing Group, LLC d/b/a Interim HealthCare  
Ridgeland, South Carolina and Bluffton, South Carolina  
Project Cost: \$83,772

Establishment of a home health agency restricted to serve Beaufort County  
NHC Home Care – South Carolina, LLC d/b/a NHC HomeCare, Beaufort  
Bluffton, South Carolina  
Project Cost: \$70,000

Establishment of a home health agency restricted to serve Beaufort County  
United Home Care, Inc. d/b/a United Home Care of the Low Country  
Beaufort, South Carolina  
Project Cost: \$93,860

Development of a thirty-two (32) bed long term acute care hospital (LTACH)  
PACE Healthcare Commons, LLC  
Bluffton, South Carolina  
Project Cost: \$14,312,910  
Affecting Charleston County

Development of a urological ambulatory surgical facility (ASF) with two (2) operating rooms (ORs)  
Lowcountry Ambulatory Center, LLC  
Charleston, South Carolina  
Project Cost: \$8,359,380

Renovation for the purchase and installation of a 1.5T Magnetic Resonance Imaging (MRI) unit to be located  
at 2550 Elms Center Road  
Palmetto Primary Care Physicians, LLC  
North Charleston, South Carolina  
Project Cost: \$1,634,954.01

Affecting Edgefield County

Establishment of a home health agency restricted to serve Edgefield County  
Health Related Home Care  
Abbeville, South Carolina  
Project Cost: \$86,620

Affecting Horry County

Establishment of a fourteen (14) bed inpatient hospice house  
Mercy Care Hospice House  
Myrtle Beach, South Carolina  
Project Cost: \$5,975,000

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 May 27, 2011. "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 Beaufort County

Renovation and expansion of 20,700 square feet of the existing Emergency Department (ED) to include upgrade of the HVAC and emergency generator systems; addition of 4,000 square feet of shelled space on the floor above the ED expansion; and expansion of basement space by 6,000 square feet to be used for dietary and educational purposes  
Beaufort County Memorial Hospital d/b/a Beaufort Memorial Hospital  
Beaufort, South Carolina  
Project Cost: \$14,500,000

Affecting Charleston County

Renovation for the addition of two (2) Operating Rooms (ORs) for a total of four (4) ORs  
Physicians' Eye Surgery Center, LLC  
Charleston, South Carolina  
Project Cost: \$1,557,709

## 6 NOTICES

### Affecting Dorchester County

Construction and renovation of existing space for a three-story patient tower that will be connected to the existing hospital on each level to accommodate the addition of thirty (30) acute care beds for a total of one hundred twenty four (124) acute care beds

Summerville Medical Center  
Summerville, South Carolina  
Project Cost: \$26,961,556

### Affecting Greenville County

Addition of thirty (30) community nursing home beds by the conversion of twenty-two (22) existing assisted living beds to nursing home beds and the addition of eight (8) nursing home beds; conversion of thirty-four (34) existing institutional nursing home beds to community nursing home beds for a total of seventy-four (74) community nursing home beds

Rolling Green Village Health & Rehabilitation Center  
Greenville, South Carolina  
Project Cost: \$11,186,983.24

### Affecting Greenwood County

Construction for the addition of eight (8) rehabilitation beds for a total of forty-two (42) rehabilitation beds and twelve (12) nursing care beds.

Greenwood Regional Rehabilitation Hospital  
Greenwood, South Carolina  
Project Cost: \$1,905,939

## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

### NOTICE OF GENERAL PUBLIC INTEREST

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

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality (BAQ), does hereby give notice of authorization being granted to the below listed sources who have requested coverage under the General Conditional Major Operating Permit "Fuel Combustion Operations." Interested persons may review the general permit and the individual facility information on our website at: <http://www.scdhec.gov/environment/baq/Permitting/GeneralPermits/concrete.asp>.

This general permit was previously open for a thirty (30) day public comment period starting on February 25, 2011, with issuance on April 1, 2011. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), DHEC may now grant coverage to any qualified sources seeking to operate under the terms and conditions of this general permit.

### Beaufort County

Resort Services, Inc.  
336 Buck Island Road  
Bluffton, SC  
(Air Permit No. 0360-0046)

Naval Hospital Beaufort  
1 Pinckney Boulevard  
Beaufort, SC  
(Air Permit No. 0360-0005)

**Charleston County**

Roper Hospital  
316 Calhoun Street  
Charleston, SC  
(Air Permit No. 0560-0046)

**Edgefield County**

US Dept. of Justice Federal Bureau of Prisons (Edgefield)  
501 Gary Hill Road  
Edgefield, SC  
(Air Permit No. 0980-0026)

**Florence County**

McLeod Regional Medical Center  
555 East Cheves Street  
Florence, SC  
(Air Permit No. 1040-0048)

**Greenville County**

Columbia Farms Inc. (Greenville)  
1354 Rutherford Road  
Greenville, SC  
(Air Permit No. 1200-0232)

**Lee County**

Lee Correctional Institution  
1204 East Church Street  
Bishopville, SC  
(Air Permit No. 1540-0027)

**Lexington County**

Lexington Medical Center  
2720 Sunset Boulevard  
West Columbia, SC  
(Air Permit No. 1560-0055)

Columbia Farms, Inc. (West Columbia)  
338 Sunset Boulevard  
West Columbia, SC  
(Air Permit No. 1560-0121)

## **8 NOTICES**

### **Marlboro County**

Sopakco, Inc.  
320 South Broad Street  
Bennettsville, SC  
(Air Permit No. 1680-0104)

### **Newberry County**

Kraft Foods (Louis Rich Facility)  
3704 Louis Rich Drive  
Newberry, SC  
(Air Permit No. 1780-0021)

### **Pickens County**

Easley Combined Utilities Peak Plant  
150 Utility Street, Building 5)  
Easley, SC  
(Air Permit No. 1880-0051)

### **Richland County**

Palmetto Health Baptist  
Taylor at Marion Streets  
Columbia, SC  
(Air Permit No. 1900-0044)

Palmetto Richland Memorial Hospital  
5 Richland Medical Park Drive  
Columbia, SC  
(Air Permit No. 1900-0062)

Office of General Services FM Energy Facility  
1121 College Street  
Columbia, SC  
(Air Permit No. 1900-0162)

### **Spartanburg County**

Spartanburg Hospital for Restorative Care  
389 Serpentine Drive  
Spartanburg, SC  
(Air Permit No. 2060-0128)

Spartanburg Regional Medical Center  
101 East Wood Street  
Spartanburg, SC  
(Air Permit No. 2060-0142)

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

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

The South Carolina Department of Health and Environmental Control (DHEC), Bureau of Air Quality (BAQ), does hereby give notice of authorization being granted to the below listed sources who have requested coverage under the General Conditional Major Operating Permit "Textile Greige Operations." Interested persons may review the general permit and the individual facility information on our website at: <http://www.scdhec.gov/environment/baq/Permitting/GeneralPermits/concrete.asp>.

This general permit was previously open for a thirty (30) day public comment period starting on February 25, 2011, with issuance on April 1, 2011. Pursuant to South Carolina Regulation 61-62.1, Section II G(7)(a)&(b), DHEC may now grant coverage to any qualified sources seeking to operate under the terms and conditions of this general permit.

**Cherokee County**

Hamrick Mills (Musgrove Plant)  
150 Hamrick Street  
Gaffney, SC  
(Air Permit No. 0600-0062)

Hamrick Mills (Hamrick Plant)  
2526 Cherokee Avenue  
Gaffney, SC  
(Air Permit No. 0600-0004)

Springfield, LLC (Limestone Plant)  
1206 Cherokee Avenue  
Gaffney, SC  
(Air Permit No. 0600-0014)

**Spartanburg County**

Inman Mills (Saybrook Plant)  
1 First Street  
Inman, SC  
(Air Permit No. 2060-0042)

## **10 DRAFTING NOTICES**

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

Statutory Authority: 1976 Code Sections 40-33-30 (2011), 44-1-140 (2002), 44-37-40 (2002), 44-37-50 (2010), and 44-89-10 et seq. (2002)

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

The Department of Health and Environmental Control proposes to amend specific sections of Regulation 61-24, Licensed Midwives. This Notice replaces and supersedes the Notice of Drafting to amend R.61-24 that was published in the State Register on April 22, 2011. Written comments received from the April noticing will be considered in addition to comments received from this May 27, 2011, noticing. Interested persons may submit written comments to Nancy Maertens, Director, Division of Health Licensing, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201. To be considered, all comments must be received no later than 5:00 p.m., June 27, 2011, the close of the drafting comment period.

#### **Synopsis:**

The Department proposes to amend the regulation to include, but not limited to, utilization of certification credentials from a nationally recognized credentialing organization approved by the Department to satisfy certain requirements for licensing and to allow for reciprocity of currently credentialed midwives. The Department seeks to address the requirements for licensure, educational requirements, revocation criteria, the provision of intrapartum care, care of the newborn, and record keeping and reporting. Previous caesarean section will be added to prohibitions in the practice of midwifery. The Department intends to add language to incorporate provider wide exceptions for tuberculosis screening and reportable accidents/incidents. The Department will also include stylistic changes, which may include corrections for: clarity and readability; grammar; punctuation; definitions; references; and overall improvement of the text of the regulation.

Legislative review of this amendment is required.

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

Statutory Authority: 1976 Code Section 30-4-45

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

The Department of Health and Environmental Control proposes to draft a new regulation that establishes procedures for the release under the South Carolina Freedom of Information Act of information the unrestricted release of which could increase the risk of acts of terrorism. Interested persons may submit their views by writing to Claire H. Prince at S.C. Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on Monday, June 27, 2011, the close of the drafting comment period.

#### **Synopsis:**

S.C. Code Section 30-4-40 of the South Carolina Freedom of Information Act creates a new exemption from disclosure of information the unrestricted release of which could increase the risk of acts of terrorism. S.C. Code Section 30-4-45 requires an agency that is the custodian of such information to promulgate regulations to regulate access to this information. The Department is proposing a new regulation that will address and implement the applicable provisions of these sections. The regulation will include, but not be limited to: procedures to address the disclosure of information to state, federal, and local authorities as required to carry out governmental functions; and disclosure of information to persons who live or work within a vulnerable zone.

Legislative review will be required.

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

Statutory Authority: 1976 Code Sections 44-96-10 et seq.

**Notice of Drafting:**

The Department of Health and Environmental Control is proposing to amend R.61-107.4, Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost. This notice of drafting was originally published in the State Register on March 26, 2010. This reissuance is to allow time to complete a revision incorporating a comprehensive stakeholder process. Interested persons may submit their views by writing to Jana White at S.C. Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on June 27, 2011, the close of the drafting comment period.

**Synopsis:**

The proposed amendment of R.61-107.4, Solid Waste Management: Yard Trash and Land-clearing Debris; and Compost, will amend the applicability of the regulation, and update, clarify and amend the rules for design, operation, monitoring, reporting and closure of wood grinding and composting facilities. The current regulation encourages the production of compost; however, it is limited in scope. The current regulation addresses the handling and processing of yard trash and land-clearing debris. This amendment will clarify the scope of the regulation by addressing standards to manage and compost a variety of other organic solid waste materials, such as food waste. Distinctions between composting and wood grinding operations will be clarified. Changes the Department are considering will include, but are not limited to, operation standards, siting requirements, exemptions, permitting requirements, penalties and financial assurance for wood grinding and composting facilities.

The name of the regulation may change to reflect the change in scope of the regulation.

Legislative review is required.

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

Statutory Authority: 1976 Code Sections 49-4-10 et seq. and 2010 Act No. 247

- (1) Proposed New Regulation 61-xx, Surface Water Withdrawal, Permitting, Use and Reporting
- (2) Proposed Repeal of Regulations 121-10, Water Use Reporting and Coordination, and 121-12, Interbasin Transfer of Water
- (3) Proposed Amendment of Regulation 61-30, Environmental Protection Fees

**Notice of Drafting:**

The Department of Health and Environmental Control proposes to promulgate new Regulation 61-xx, Surface Water Withdrawal, Permitting, Use and Reporting, amend Regulation 61-30, Environmental Protection Fees, and simultaneously repeal Regulations 121-10, Water Use Reporting and Coordination, and 121-12, Interbasin Transfer of Water. The Department initially proposed to promulgate these regulations by publication of a Notice of Drafting in the State Register on August 27, 2010, and is renouncing the proposed regulations by publication of a second Notice of Drafting in the State Register on May 27, 2011. This second noticing will extend the time necessary for the Department to promulgate the proposed regulations within the one-year

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statutory timeframe pursuant to S.C. Code Ann. Section 1-23-120(A) of the S.C. Administrative Procedures Act. Written comments received by the Department from the initial noticing on August 27, 2010, will be considered, as well as any additional written comments that may be received from this second noticing of May 27, 2011. Interested persons are invited to present their views in writing to Charles Gorman, P.G., Bureau of Water, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received by 5:00 p.m. on June 27, 2011, the close of the drafting comment period.

### **Synopsis:**

Act 247 of 2010 substantially amended Section 49-4-10 et seq. of the 1976 Code of Laws, renaming these sections as the South Carolina Surface Water Withdrawal, Permitting, Use and Reporting Act. As authorized by the Act, the Department intends to promulgate a new regulation to implement the provisions of this Act, amend Regulation 61-30 to incorporate fees authorized by this Act, and simultaneously repeal Regulations 121-10 and 121-12, which would become obsolete upon promulgation of the new regulation.

Legislative review will be required.

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

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110(2), and 38-33-200

### **Notice of Drafting:**

The South Carolina Department of Insurance proposes to amend Regulation 69-22, Health Maintenance Organizations. Interested persons should submit their comments in writing to: Rachel Harper, South Carolina Department of Insurance, 1201 Main Street, Suite 1000, Columbia, South Carolina 29201 or P.O. Box 100105, Columbia, South Carolina 29202. To be considered, comments must be received no later than 5:00 p.m. on June 27, 2011, the close of the drafting comment period.

### **Synopsis:**

The South Carolina Department of Insurance proposes to amend Regulation 69-22 regarding Health Maintenance Organizations. The amendments will update the regulation.

The proposed amendment of Regulation 69-22 will require legislative review.

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

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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

### **Synopsis:**

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.

### **Instructions:**

Print the regulations in accordance with the directions given below to reflect amendments.

Regulations 12-120, 12-121, 12-122, 12-123 and 12-124. Text amended

Regulation 12-125. Text remains the same

Regulation 12-126. Text deleted

### **Text:**

12-120. Definitions.

A. "Act" means the legislation authorizing the governing bodies of counties and municipalities to grant special property tax assessments to "rehabilitated historic properties" and "low and moderate income properties."

B. "Administrative Review Committee" means a committee of the State Board of Review that shall include three or more members with two or more members representing the fields of architecture, architectural history, or related fields as appropriate.

C. "Department" means the South Carolina Department of Archives and History.

D. "Expenditures for rehabilitation" means the actual costs of rehabilitation relating to one or more of the following:

1. Improvements located on or within the historic building as designated;
2. Improvements outside of but directly attached to the historic building which are necessary to make the building fully useable (such as vertical circulation) but shall not include new construction of rentable/habitable floor space;
3. Architectural and engineering services attributable to the design of the improvements; or
4. Costs necessary to maintain the historic character or integrity of the building.

E. "Historic Property" means tangible real property that has been granted historic designation by the local governing body. Historic Property may include more than one historic building, including a historically-related complex, such as a house and barn or courthouse and jail. Historic Property may also include non-historic buildings or structures that are not eligible for the special property tax assessment.

F. “Local Governing Body” means county or municipal governments with jurisdiction over rehabilitated historic properties or low and moderate income rental properties seeking the special property tax assessments authorized by the Act.

G. “National Register of Historic Places” means the list of districts, sites, buildings, structures, and objects significant in South Carolina history, architecture, archaeology, engineering, and culture, that is maintained by the Secretary of the United States Department of the Interior under authority of the National Historic Preservation Act.

H. “Rehabilitation” means the process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the building(s) that are significant to its historic, architectural and cultural values.

#### 12-121. Local Governing Body Certification.

A. General. The local governing body shall establish a system for preliminary and final certification of properties that are eligible under the Act. The local governing body may designate, in its discretion, an agency or department to perform its duties under the Act. The local governing body shall notify the county assessor, auditor, and treasurer that it has established the special property tax assessments and of any properties certified for the special property tax assessments.

B. Scope. The special property tax assessment of rehabilitated historic property shall apply to the building or structure that is rehabilitated, the real property on which the building is located, and additional real property surrounding the building or structure that has been determined significant to the historic character of the building by the local governing body. The special assessment shall not apply to rehabilitation expenses on buildings or structures that are not historic.

#### 12-122. Designation of Property as Historic.

A. General. The local governing body shall establish a system for designation of historic properties in cases where such a system is not already in place.

B. Eligible Properties. The following categories of property may be designated historic by the local governing body:

1. Properties listed individually in the National Register of Historic Places;
2. Properties that contribute to an individual property or historic district listed in the National Register of Historic Places; or
3. Properties fifty or more years old that meet the local governing body’s criteria for designation (see R.12-123).

C. Moved buildings.

1. General. The Department discourages the moving of historic buildings from their original sites.
2. If a building already designated historic by the local governing body is to be moved as part of rehabilitation work for which certification is sought, the owner must document that the building retains the characteristics that made it eligible for historic designation on the former site. The local governing body shall verify that the historic building retains those qualities on its new site.

3. If a building not yet designated historic is to be moved as part of rehabilitation work for which certification is sought, the local governing body shall determine whether the building meets its criteria for designation on its new site.

4. If a building listed in the National Register of Historic Places is to be moved as part of rehabilitation work for which certification is sought, the owner must follow the specific federal procedures that enable the building to remain listed. The owner should contact the Department early in the planning process if moving is a necessary step in their project.

D. Removal of Historic Designation.

1. The local governing body may remove the historic designation if the property no longer possesses the qualities that made it eligible for designation.

2. In the case that a property had been designated historic based on its listing in the National Register of Historic Places and the property is removed from the National Register, one of the following must occur:

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- a. The property must be designated historic based on the local criteria; or
- b. The property loses the historic designation as of the date of removal from the National Register of Historic Places.

3. The date of the removal of historic designation shall be the basis for the date of the end of the special property tax assessment.

E. Technical Assistance. The Department shall provide technical assistance and advice, upon request, to the local governing body in carrying out the responsibilities under the Act.

### 12-123. Criteria for Designation.

A. General. The local governing body shall establish criteria for designation of historic properties.

B. Categories of Significance. Categories of significance for the criteria may include but are not limited to the following:

1. Architecture;
2. Culture;
3. Engineering; or
4. History.

C. Sample Criteria and Technical Assistance. The Department shall provide sample criteria, technical assistance, and advice, upon request, to the local governing body in carrying out the responsibilities under the Act.

### 12-124. Review of Rehabilitation Work.

A. General. The owner of any property seeking approval of rehabilitation work pursuant to the certification process of a local government (see R.12-121) shall comply with the procedures described in this regulation.

1. The owner shall submit a completed Rehabilitated Historic Property Application with supporting documentation to the Reviewing Authority (as defined in the Act). Owners who undertake any rehabilitation work without prior approval from the Reviewing Authority do so at their own risk and may disqualify all rehabilitation work from eligibility under the Act.

a. In cases where the ordinance requires owners to apply for preliminary certification before any project work begins, the application must be provided to the Reviewing Authority prior to beginning any project work.

b. In cases where the ordinance does not require owners to apply for preliminary certification before any project work begins, owners are strongly encouraged to submit the application prior to undertaking any rehabilitation work.

c. In cases where the owner proposes changes in the proposed work prior to final approval of rehabilitation work, owners are strongly encouraged to submit the changes prior to undertaking such rehabilitation work.

d. In cases where the owner proposes additional work after final approval of rehabilitation work but before the end of the special assessment period, owners are strongly encouraged to submit the additional work prior to undertaking such rehabilitation work.

2. The approval of rehabilitation work is based on the Standards for Rehabilitation (see R.12-125). The final approval of rehabilitation work by the Reviewing Authority is based on the completed work.

B. Rehabilitated Historic Property Application.

1. The Department shall provide a Rehabilitated Historic Property Application for owners to use when applying for the special assessment. In cases where the Department is not the Reviewing Authority, then the local governing body may develop an application that requests the same information as the application provided by the Department.

2. Part A --Preliminary Approval of Rehabilitation Work form, shall be used by the owner to describe the historic significance of the building, and to request preliminary approval of proposed rehabilitation work.

3. Part B --Final Approval of Rehabilitation Work form, shall be used by the owner to request final approval of completed rehabilitation work when the Reviewing Authority has already issued preliminary approval of rehabilitation work.

4. Parts A and B shall be used by the owner to request final approval of completed rehabilitation work when the Reviewing Authority has not issued preliminary approval of rehabilitation work.

5. Continuation/Amendment form shall be used by the owner to describe changes in the proposed work prior to final approval of rehabilitation work or to describe additional work after final approval of rehabilitation work but before the end of the special assessment period.

**C. Review Process.**

1. General. The Reviewing Authority shall review the application and determine if the rehabilitation work is consistent with the Standards for Rehabilitation. Rehabilitation work that is consistent with the Standards for Rehabilitation shall be approved. The Reviewing Authority shall notify the owner of this determination in writing. If the rehabilitation work is not consistent with the Standards for Rehabilitation, the Reviewing Authority shall deny the rehabilitation work and, where possible, advise the owner of necessary revisions. An authorized representative of the Reviewing Authority may inspect Historic Properties during the review process. The owner may appeal the determination by the Reviewing Authority that a rehabilitation project is not consistent with the Standards for Rehabilitation, see R.12-124D. In cases where the Department is the Reviewing Authority, the Department shall notify the local governing body of review decisions.

2. The Reviewing Authority shall consider the description of the rehabilitation work provided in the Part A – Preliminary Approval of Rehabilitation Work form and any attachments as the basis for the approval or denial of the rehabilitation work. In cases of discrepancy, the description in the application shall prevail over any/all attachments. After a project has received preliminary approval of rehabilitation work, the owner is responsible for reporting any proposed substantive changes in the work described in the application to the Reviewing Authority by written statement to ensure continued consistency with the Standards for Rehabilitation. Such changes should be described on a Continuation/Amendment form as provided by the Reviewing Authority. The Reviewing Authority shall determine if the proposed changes are consistent with the Standards for Rehabilitation and notify the owner in writing. Owners who undertake any rehabilitation work without prior approval from the Reviewing Authority do so at their own risk and may disqualify all rehabilitation work from eligibility under the Act.

3. The Reviewing Authority shall consider the documentation of the completed rehabilitation work for the approval or denial of the completed rehabilitation work. Approval of Part B constitutes final approval of the rehabilitation work by the Reviewing Authority.

4. An authorized representative of the Reviewing Authority may inspect completed projects during the special assessment period to determine if the work is consistent with the Standards for Rehabilitation.

**D. Administrative Review and Appeal.** An owner may appeal a denial decision by the Reviewing Authority by requesting it in writing within thirty (30) days of the date of that decision.

1. The owner may appeal a decision of the board of architectural review by following the process provided by state law (S.C. Code of Laws, Sections 6-29-890 through 6-29-940).

2. The owner may request an administrative review of a decision by the Department in writing within thirty (30) days of the date of that decision.

3. The Administrative Review Committee shall hear the request, based on the application, information in the files of the Department, and additional information (if any) provided. In considering the request, the Administrative Review Committee shall take into account alleged errors in professional judgment or alleged prejudicial procedural errors by Department officials. The decision of the Administrative Review Committee may:

- a. Reverse the decision of the Department;
- b. Affirm the decision of the Department; or
- c. Resubmit the matter to the Department for further consideration.

4. The decision of the Administrative Review Committee shall be the final administrative decision.

**E. Additional Work.**

1. Additional work on the property, other than ordinary maintenance and/or repair with matching materials, done after the final approval of rehabilitation work by the Reviewing Authority and before the expiration of the special property tax assessment shall be brought to the attention of the Reviewing Authority. Owners who undertake any rehabilitation work without prior approval from the Reviewing Authority do so at their own risk and may disqualify all rehabilitation work from eligibility under the Act.

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2. The owner shall provide complete information describing the additional work on a Continuation/Amendment form and any necessary attachments. The Reviewing Authority shall determine if the overall project remains consistent with the Standards for Rehabilitation. The Reviewing Authority shall notify the owner of this determination in writing.

3. If the overall project including the proposed additional work, is not consistent with the Standards for Rehabilitation, the owner shall be notified in writing that the Reviewing Authority intends to rescind its approval of the project. The owner may then withdraw the request and revise the work in consultation with the Reviewing Authority. The rescission shall be effective thirty days after the date of the letter from the Reviewing Authority, unless the owner has withdrawn the proposal.

4. The Reviewing Authority shall notify the local governing body in writing of the decision to rescind approval of the rehabilitation work.

5. The effective date of the rescission by the Reviewing Authority shall be the basis for the end date of the special property tax assessment.

### 12-125. Standards for Rehabilitation.

A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

H. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

I. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

### **Fiscal Impact Statement:**

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

**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

Document No. 4126  
**CLEMSON UNIVERSITY**  
**STATE CROP PEST COMMISSION**  
 CHAPTER 27  
 Statutory Authority: 1976 Code Section 46-9-40

Article 17. South Carolina Pesticide Control

27-1070. Definitions

27-1077. Certification and Licensing of Private Applicators

27-1078. Certification and Licensing of Commercial Applicators

**Synopsis:**

The State Crop Pest Commission has previously promulgated regulations dealing with South Carolina Pest Control, specifically contained in Article 17, Chapter 27 of the South Carolina Rules and Regulations. These amendments deal with defining certain terms, a new license category for soil fumigation, and clarifications with respect to certification and recertification requirements.

**Instructions:**

These are amendments to Article 17, Chapter 27, South Carolina Rules and Regulations. Delete the current regulations 27-1070, 27-1077, and 27-1078. Replace each with the regulation shown below.

**Text:**

27-1070. Definitions.

A. Director means the Director of the Division of Regulatory and Public Service Programs, Clemson University.

B. Department is the Department of Pesticide Regulation, a department within the Division of Regulatory and Public Service Programs, Clemson University, and the successor to the Department of Fertilizer and Pesticide Control and the Plant Pest Regulatory Service.

C. Business means any person, as defined in the Pesticide Control Act, engaging in activities regulated by the Act for hire or remuneration of any kind, including trade or barter, on the property of another. Business activity includes performing structural pest control activities, as defined below.

D. Performing structural pest control activities includes, but is not limited to, the use of any pesticide in, on, under, or immediately adjacent to any structure with the intent to prevent, destroy, repel or otherwise mitigate any pest or engaging in any other activities intended or claimed to mitigate pests in structures including the installation of devices. Structural pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides in, on, under, or immediately adjacent to any structure with the intent to prevent, destroy, repel, or otherwise mitigate any pest. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

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(1) The use of EPA-registered disinfectants for ordinary or disaster-recovery cleaning purposes is not a structural pest control activity, provided that no claims are made for the control of pests in the structure.

(2) The application of EPA-registered cleaning agents to the interior of ductwork as part of an ordinary cleaning process is not a structural pest control activity, provided that no claims are made for the control of pests in the structure or in the ductwork.

(3) The installation of animal traps in structures for the control of nuisance vertebrate pests other than commensal rodents (e.g. rats and mice) is not a structural pest control activity.

(4) Making an inspection for or issuing the Official South Carolina Wood Infestation Report, which must be issued by a licensed applicator as detailed below, is a structural pest control activity.

(5) Making pesticide treatment recommendations is a structural pest control activity.

(6) The inspection of a structure for the purposes of rendering an opinion as a consultant or expert regarding structural damage due to insects or other organisms, the adequacy of previous treatment or inspection, or similar issues regulated under these Regulations is not a structural pest control activity.

E. Warranty sales means the sale of renewable or non-renewable warranty coverage or contracts against structural pests, excluding guarantees of accuracy associated with the issuance of the Official S.C. Wood Infestation Report, which are not supported by any treatment or control measures. The re-issuance of warranties in the purchasing company's name following the purchase of one company by another is not a warranty sale, nor is the reinstatement of warranties on previously treated structures.

F. Branch office means any physical location at which business records are maintained separate from the main business office, or, if no records are maintained there, any location which three (3) or more employees utilize as their base of daily activities.

G. Termiticide means any pesticide or treated article intended to protect a structure against subterranean termites. The definition includes baits, all conventional soil-applied termiticides regardless of their mode of action, wood-treatment products such as borates when applied during or after construction, and construction materials impregnated with insecticides and intended to protect the structure from attack. It also includes stainless steel mesh, uniform-size sand or gravel materials, or other physical barriers for which termite control, termite detection, or termite mitigation claims are made.

H. Pretreat and pretreatment refer to the subterranean termite control treatment performed on a building while it is under construction. This treatment is normally performed in several stages as the building is completed.

(1) For liquid treatments a pretreat is considered to begin on the day that the first application of chemical is made.

(2) For pretreatments performed with bait systems or physical barriers the treatment is considered to have begun when bait or monitoring stations are first installed.

(3) For pretreatments conducted with borate or other wood-treatment products the treatment is considered to have begun at the time the first application to the structure is made.

I. Pesticide use means the distribution, holding for distribution or sale, sale, mixing, loading, transportation, application, or storage of any material for which pesticidal claims are made.

J. Performing public health pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel, or otherwise mitigate any pest of public health significance or engaging in any other activities intended or claimed to mitigate pests of public health significance for compensation or as a government employee on the property of another, including the installation of devices. Public health pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel or otherwise mitigate any pest of public health significance. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

(1) The use of EPA-registered disinfectants for ordinary or disaster-recovery cleaning purposes is not a public health pest control activity regulated by this Section.

(2) The installation of animal traps in or around privately-owned structures for the control of vertebrate pests of public health significance (e.g., rats and mice) is not a public health pest control activity regulated by this Section.

(3) The installation of animal traps and the distribution of poisons intended to control rat and mouse populations in or around municipal streets, utilities, and public buildings or in other public areas such as recreational and industrial parks, schools, public hospitals, and similar areas is a public health pest control activity regulated by this Section.

(4) The installation of ultraviolet flying insect traps, air curtains, screens, and similar devices is not a public health pest control activity regulated by this Section unless the devices emit or employ pesticides or public health protection claims are made.

K. Performing turf and ornamental pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel or otherwise mitigate any pest of publicly or privately owned turf or ornamental plantings for compensation or as a government employee on the property of another, including the installation of devices. Turf and ornamental pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel, or otherwise mitigate any pest of turf or ornamental plantings. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

(1) The application of pesticides to ornamental plants in a greenhouse or nursery is not a turf and ornamental pest control activity regulated by this Section.

(2) The installation of irrigation systems and similar devices, including chemigation systems, is not a turf and ornamental pest control activity regulated by this Section.

(3) The application of fertilizers not mixed with pesticides or herbicides is not a turf and ornamental pest control activity regulated by this Section, nor is the spray or broadcast application of grass seed, mulch, or mixtures not containing materials registered as pesticides or for which pesticidal claims are made.

(4) Maintenance activities such as mowing, trimming, watering, and landscaping are not turf and ornamental pest control activities regulated by this Section, even if claims of weed reduction or plant health and growth are made.

L. Performing aquatic pest control activities includes, but is not limited to, the use of any pesticide with the intent to prevent, destroy, repel or otherwise mitigate any pest of publicly or privately owned waters, including ponds, lakes, oceans, rivers, streams, reservoirs, and impoundments, whether or not they are navigable, for compensation on the property of another or as a government employee, including the installation of devices. Aquatic pest control activities also includes the soliciting, advertising, or making of sales proposals in any form for any services involving the use of pesticides or devices with the intent to prevent, destroy, repel, or

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otherwise mitigate any pest of publicly or privately owned waters, including ponds, lakes, oceans, rivers, streams, reservoirs, and impoundments, whether or not they are navigable, for compensation on the property of another. (Licensing is mandatory in this category as per Section 27-1085 L, below.)

(1) The application of pesticides to ornamental aquatic plants in a greenhouse or nursery is not an aquatic pest control activity regulated under this Section.

(2) The installation of aeration systems and similar devices or the use of mechanical harvesters to remove vegetation is not an aquatic pest control activity regulated under this Section.

(3) The application of fertilizers not mixed with pesticides or herbicides is not an aquatic pest control activity regulated under this Section, nor is the use of dyes to suppress the growth of aquatic vegetation.

(4) The installation of devices to exclude, prevent, destroy, repel or otherwise mitigate aquatic pest animals is not an aquatic pest control activity regulated under this Section.

M. Structure and building mean any edifice to which activities regulated under these regulations are applied or proposed to be applied, including the area underneath and immediately adjacent to the foundation.

N. All pronouns and any variations thereof in these Regulations shall be deemed to refer to the masculine, feminine, neuter, singular, or plural, as the identity of the person or entity may require.

O. "Inactive license" means a commercial applicator's license or a non-commercial applicator's license which the Department has, after a qualified request from the license holder, placed in that status as per Section 27-1078 O, below.

P. "Continuing Certification Unit" (CCU) is a measure of the educational value of a course of study judged by the Department to be suitable for meeting the recertification requirements of Section 27-1078 N, below.

### 27-1077. Certification and Licensing of Private Applicators.

A. No person younger than eighteen (18) years-old will be licensed as a private applicator. In hardship cases, however, persons under the age of eighteen (18) may be licensed at the discretion of the Director after appropriate consultations with the affected parties or their representatives.

B. Private applicators are not required to demonstrate financial responsibility.

C. Persons holding a private applicators license may use or directly supervise the use of a pesticide which is classified for restricted use, but only for the production of an agricultural commodity on property owned or rented by them or their employer. Private applicators may apply pesticides on the property of another person only if the application is performed without compensation, or if the only compensation provided is the trading of personal services between producers of agricultural commodities.

D. Private applicators must accomplish all of the following prior to being certified and licensed:

(1) Complete an application form published by the Department.

(2) Complete a prescribed training program and pass an exam dealing with pesticides.

(3) Pay the pro-rated portion of the prescribed normal fee for the remainder of the licensing period in which the license is issued.

E. Persons holding valid commercial and noncommercial applicator licenses, if they desire, may obtain a private applicator's license simply by submitting the proper application form and the prorated fee for the remainder of the licensing period to the Director. Additional training is not required.

F. Private applicator licenses are issued in five (5) year licensing periods or recertification blocks. Blocks end in 2004, 2009, 2014, etc. Licenses are pro-rated and expire at the end of the block in which they are issued. During each recertification block after the one in which the license is issued each private applicator must successfully complete five (5) Continuing Certification Units (CCUs) of training. Alternatively, the private applicator may complete the initial licensing requirements and re-apply to the Director for a license. All Continuing Certification Units (CCUs) must be approved in advance by the Department.

G. All applications of Restricted Use Pesticides to any crop or commodity while it is held in a commercial storage or processing facility must be made by or under the direct supervision of a commercial applicator certified in Category 1C.

27-1078. Certification and Licensing of Commercial Applicators.

A. No person younger than eighteen (18) years-old will be licensed as a commercial applicator.

B. Commercial applicators must demonstrate to the Director the financial responsibility required by law, before the Director may issue a license.

C. Continuous financial responsibility is an on-going responsibility of the commercial applicator, and no commercial applicator may receive, purchase, apply, use, supervise, or conduct other application-related activities without the required financial responsibility in place.

(1) Category 3, 5, and 8 applicators must maintain financial responsibility in the amount of \$50,000 with an annual aggregate claims limit of not less than \$100,000.00 before performing any pest control activities, including advertising, as specified in Section 27-1085 L, below.

(2) Category 7 applicators must maintain comprehensive general liability financial responsibility of not less than \$100,000.00 combined single limit liability coverage, which must include both bodily injury and property damage coverage.

(3) Failure to maintain the requisite financial responsibility in any category shall cause the immediate and automatic suspension of the commercial applicator's license until such time as current financial responsibility is satisfactorily demonstrated to the Director. If the applicator fails to re-instate their financial responsibility within three months, or if their license expires sooner, the license is automatically revoked and must not be restored until the applicator has again completed the certification process, including the exams.

D. The insurance or surety company must be one licensed to do business in South Carolina, and must give at least ten days written notice by certified mail to the Department as a condition precedent to the cancellation by the surety or insurer, material change, or cancellation by the insured.

E. The above notwithstanding, commercial applicators are not relieved from liability for damages to persons or property caused by pesticides applied by or under the supervision of the licensee whether or not such use conforms to the requirements of the product label and the rules and regulations promulgated by the Director.

F. Financial Responsibility may be demonstrated by:

(1) A current public liability and property damage insurance policy and or certificate of insurance (issued by an insurance company). Binders are not acceptable.

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(2) A certificate of self-insurance issued by the Workman's Compensation Commission. (Although this certificate is specifically designed to cover workman's compensation claims, the Department considers this certificate indicates sufficient assets to cover the liability requirements of the law).

G. All commercial applicators must provide a phone number where the commercial applicator can normally be reached during normal working hours. If this number changes, the Department must be notified within three (3) working days.

H. Persons holding a commercial applicator's license may use restricted use pesticides, but only for work in the specific categories in which the commercial applicator has demonstrated competence. Commercial applicator's licenses will be issued for the following categories of commercial pesticide-application operations:

- (1) Agricultural Pest Control (Category 1).
  - (a) Plant (Category 1A).
  - (b) Animal (Category 1B).
  - (c) Stored Product Pest Control (Category 1C).
  - (d) Soil Fumigation (Category 1D).
- (2) Forest Pest Control (Category 2).
- (3) Ornamental and Turf Pest Control (Category 3).
- (4) Seed treatment (Category 4).
- (5) Aquatic Pest Control (Category 5).
- (6) Right-of-way Pest Control (Category 6).
- (7) Industrial, Institutional, Structural and Health-Related Pest Control (Category 7).
  - (a) General (Category 7A).
  - (b) Fumigation (Category 7B).
- (8) Public Health Pest Control (Category 8).
- (9) Regulatory Pest Control (Category 9).
- (10) Demonstration and Research Pest Control (Category 10).
- (11) Aerial Applicator (Category 11).
- (12) Miscellaneous (Category 12).
  - (a) Wood Preservative Treatment (Category 12A).
  - (b) Anti-fouling paint (TBT) Application (Category 12B).

(c) Small Animal Pest Control (Category 12C).

(d) Sewer Line Pest Control (Category 12D).

I. Commercial applicators must accomplish the following prior to being certified and licensed:

(1) Pass the Core examination, a basic test dealing with the minimum amount of subject matter considered essential to the safe use of restricted use pesticides.

(2) Pass a separate Category examination for each of the practice areas listed above.

Note: passing the core exam without passing a category exam does not entitle the applicant to use or supervise the use of Restricted Use Pesticides or perform pest control activities in categories for which licensing is required.

(3) Complete an application form published by the Department.

(4) Fees for the examinations, licensing, and for certification in additional categories beyond the initial category of certification shall be as prescribed.

J. Aerial Applicators.

(1) All aerial applicators of pesticides (including transient aircraft pilots) are subject to the same requirements outlined in paragraph D (1) above. All aerial applicators must be certified and licensed by the Department before applying restricted use pesticides by air within the State.

(2) These regulations concerning aerial applicators do not in any way negate the regulations promulgated by the Aeronautics Division of the SC Department of Commerce or its successors.

(3) Aircraft must be secured against theft and tampering in a manner as prescribed by the Director after appropriate consultations with the affected parties or their representatives.

(4) Chemicals, use-dilutions, and their containers both on and off the aircraft must be secured in a manner as prescribed by the Director after appropriate consultations with the affected parties or their representatives.

K. Commercial applicator licenses shall expire on December 31<sup>st</sup> of each year.

L. Commercial applicator licenses are renewable annually by re-application to the Director prior to January 1<sup>st</sup> and payment of the prescribed annual fee. A 25% penalty will be charged for renewal applications filed after January 1<sup>st</sup>. Reexamination is not required for licenses renewed before April 1<sup>st</sup> as long as the recertification requirements of Section N, below, and continuous financial responsibility has been maintained as per Section 27-1078 C, above.

M. Commercial applicators holding valid licenses who desire to have a private applicator=s license may submit the proper application form and the prescribed fee to the Director. A private applicator license will be issued with no additional training required.

N. Recertification periods for commercial applicators are five (5) year periods, beginning January 1<sup>st</sup> of 1994 and ending on December 31<sup>st</sup> of 1998, 2003, 2008, and every five (5) years thereafter. During each recertification period after the one in which the license is issued each Commercial Applicator must accumulate no less than the number of Continuing Certification Units (CCUs) specified below for each category in which they are licensed, up to a maximum of 24 CCUs. Alternatively the applicator may complete the initial licensing requirements and re-apply to the Director for a license.

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(1) All courses of study for which CCUs are requested must be submitted to the Department at least fifteen business days in advance of the date of the training. On-line, correspondence, or other self-study programs must be submitted for approval at least fifteen business days before being offered to participants. Submission of a program to the Department does not guarantee that it will receive CCUs.

(2) CCUs will be awarded as either category-specific or core-competency CCUs. Licensed applicators in categories in which licensing is mandatory must accumulate category-specific CCUs as indicated below before renewing their licenses. Licensed applicators holding certification in more than one category in which licensing is mandatory must accumulate the required number of category-specific CCUs for each mandatory category, up to a maximum of 24, as above.

(3) Once the required number of category-specific CCUs has been accumulated, either core-competency CCUs or additional category-specific CCUs may be used to fulfill the remaining CCU requirements.

(4) The Department will award CCUs based on its evaluation of the content of the course of study.

(5) Applicators certified in Category 7A must accumulate 20 CCUs in each recertification period, no less than 12 of which must be specific to Category 7A.

(6) Applicators certified in Category 7B must accumulate 10 CCUs in each recertification period, no less than 3 of which must be specific to Category 7B.

(7) Applicators certified in Category 3, 5, or 8 must accumulate 10 CCUs in each recertification period, no less than 3 of which must be specific to each category.

(8) Applicators certified in other categories must accumulate 10 CCUs in each recertification period.

(9) Applicators may obtain no more than one-half of the total number of required category-specific CCUs and no more than one-half of the core-competency CCUs during the last year of any recertification block. Applicators may "carry over" to the next recertification block any CCUs they obtain in excess of the minimum required, both category-specific and core-competency, during the final year of any recertification block.

O. The Department may at its discretion place a license into an inactive status at the request of the license holder for a period of not more than 5 years. During the inactive period the license holder is relieved of the requirement to show financial responsibility.

(1) Holders of inactive licenses must meet the recertification requirements set forth above, and must renew their licenses annually.

(2) No pesticide use or other activities regulated by this Section may be conducted or supervised using an inactive license.

### **Fiscal Impact Statement:**

No additional state funding is requested. The Commission estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed revisions.

### **Statement of Rationale:**

This regulation is necessary to enhance the ability of the Commission to maintain and enhance competence for licensed pesticide applicators.

Document No. 4185  
**CLEMSON UNIVERSITY**  
**STATE CROP PEST COMMISSION**  
 CHAPTER 27  
 Statutory Authority: 1976 Code Section 46-9-40

27-78. *Phytophthora ramorum* Quarantine

**Synopsis:**

The State Crop Pest Commission is amending Regulation 27-78, a quarantine imposed for *Phytophthora ramorum*, to follow federal requirements related to this plant pathogen. *Phytophthora ramorum* manifests itself in a disease known as Sudden Oak Death or as ramorum blight. Certain areas of certain states are under either quarantine actions, or have had certain areas designated as regulated areas by the United States Department of Agriculture (USDA) in an attempt to prevent the spread of the disease, which could pose a serious threat to the export market and to domestic agricultural, horticultural and silvicultural activities. USDA Animal and Plant Health Inspection Service (APHIS) issued a Federal Order requiring that interstate shipping nurseries located either in counties that are established as quarantined areas or in regulated counties that have previously tested positive for *Phytophthora ramorum* provide pre-notification of shipments for certain high-risk plant species. The Federal Order went into effect on March 1, 2011. The amendment to Regulation 27-78 will result in conformity with this new Federal Order and any other statutes, regulations, orders or other requirements adopted by the federal government related to controlling and regulating this plant pathogen.

Notice of Drafting for the proposed amendment was published in the *State Register* on November 26, 2010.

**Instructions:**

Replace Section 4 of Regulation 27-78 with the following. All other items and sections remain unchanged.

**Text:**

27-78. *Phytophthora ramorum* Quarantine.

4. Regulation of *Phytophthora ramorum*.

Clemson University Department of Plant Industry will enforce any applicable United States Department of Agriculture statute, regulation, order or other requirement regarding *Phytophthora ramorum*.

Document No. 4130  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards  
 61-86.1 Standards of Performance for Asbestos Projects

**Synopsis:**

The Department has amended R. 61-62.1, Definitions and General Requirements, and the SIP 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 the exceedance limitation for the carbon monoxide (CO) standard; R. 61-62.5, Standard No.

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4, Emissions from Process Industries, to modify the regulatory strategy for cotton gins; and clarify the definition for major source threshold throughout R. 61-62. The Department has also deleted R. 61-62.5, Standard 6, Alternative Emission Limitation Options (“Bubble”); and updated the entirety of R. 61-62 to correct typographical errors, provide clarification, and delete or update obsolete requirements.

Based on concerns brought up during legislative approval of previous amendments, the Department also has amended R. 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.

The Department has met with stakeholders to develop these amendments. Based on comments received, the obsolete requirement of stack testing for Total Reduced Sulfur (TRS) at facilities that are already required to have a continuous emissions monitoring system (CEMS) installed was removed from R. 61-62.5 Standard 4, Section XII(B).

Notices of Drafting were published in the South Carolina *State Register* on September 26, 2008, in Volume 32, Issue No. 9; and on February 26, 2010, in Volume 34, Issue No. 2. The purpose of the second Notice of Drafting was to extend the drafting period initially established by the September 26, 2008, drafting notice. A Notice of Proposed Regulation was published in the *State Register* on June 25, 2010 (Document No. 4130).

### Discussion of Revisions:

#### SECTION CITATION/EXPLANATION OF CHANGE:

#### **S.C. Regulation 61-62.1 Definitions and General Requirements**

##### R. 61-62.1, Section I – Definitions

Added definition “15.CAA - The Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.* Also referred to as “the Act.”

##### R. 61-62.1, Section I – Definitions:

Amended definition for “Conditional major source” to replace, “in S.C. Regulation 61-62.70, Title V Operating Permit Program” with “by applicable Federal and State regulations” in order to take into account all federal requirements for major sources.

##### R. 61-62.1, Section I Definitions:

Clarified definition for “Department” to include reference to the “South Carolina” Department of Health and Environmental Control.

##### R. 61-62.1, Section I – Definitions:

Included “40 CFR sections 61, 63, and 70” in definition for “federally enforceable” in order to clarify applicability of Federal NESHAP and Title V regulations.

##### R. 61-62.1, Section I Definitions:

Changed the definition of “Fugitive Emissions” to be consistent with 40 CFR 51.166.

##### R. 61-62.1, Section I – Definitions:

Renamed definition of “Major Plant” to “Major source” for consistency and amended the definition to replace “one hundred tons per year or more of any regulated air pollutant” with “greater than or equal to the major source threshold as defined by applicable Federal and State regulations” in order to take into account all federal requirements for major sources.

R. 61-62.1, Section I - Definitions

Moved and renumbered definitions for “PM<sub>10</sub>” and “PM<sub>10</sub> Emissions” to appropriate alphabetic place in definitions. Also deleted an unnecessary date reference in “PM<sub>10</sub>.”

R. 61-62.1, Section I – Definitions:

Added definition: “64. PM<sub>2.5</sub> – Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method based on Appendix L of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR 53.”

R. 61-62.1, Section I – Definitions:

Added definition: “65. PM<sub>2.5</sub> Emissions - Finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method approved by the Department, with concurrence of the U. S. Environmental Protection Agency.”

R. 61-62.1, Section I – Definitions:

Amended definition for “Secondary Emissions” to replace instances of word “plant” with “source” to maintain consistency throughout all regulations.

R. 61-62.1, Section I – Definitions:

Renamed definition “Synthetic minor plant” to “Synthetic minor source” for consistency and amended the definition to replace “as defined in S.C. Regulation 61-62.5, Standard No. 7, Section I, Prevention of Significant Deterioration (“PSD”)” with “by applicable Federal and State regulations” in order to take into account all federal requirements for major sources.

R. 61-62.1, Section I – Definitions:

Renumbered definitions in alpha-numeric order from definition 15 to end as needed for consistency.

R. 61-62.1, Section II – Permit Requirements:

Added introductory paragraph before subsection II.A: “The following regulation will not supersede any State or Federal requirements nor special permit conditions, unless this regulation would impose a more restrictive emission limit. The owner or operator shall comply with all terms, conditions, and limitations of any Department-issued permit for sources or activities at its facility. A source’s permit status may change upon promulgation of new regulatory requirements” and deleted sections (A)(1)(a) and (A)(4) to clarify terms that apply to all permits.

R. 61-62.1, Section II.A.1.a:

Section deleted and information included in the aforementioned new Section II introductory paragraph.

R. 61-62.1, Section II.A.4:

Section deleted and information included in the aforementioned new Section II introductory paragraph.

R. 61-62.1, Section II.A.5:

Reformatted the requirements necessary to extend construction permits and renumbered as necessary.

R. 61-62.1, Section II.A(1):

Enumerated last paragraph for section outline codification.

R. 61-62.1, Section II.A:

Enumerated last paragraph for section outline codification.

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R. 61-62.1, Section II.B.2.h:

Added provision: “emissions calculations and any other information necessary to document qualification for this exemption must be maintained onsite and provided to the Department upon request” to require facilities to keep pertinent information for this exemption on site.

R. 61-62.1, Section II.B.3:

Changed the wording with regard to sources placed on a list of sources that are exempt without further review from the requirement to obtain a construction permit from “to have total uncontrolled emissions less than the thresholds in Section II (B)(2)(h)” to “will not interfere with the attainment or maintenance of any State or Federal Standard.”

R. 61-62.1, Section II.B.4:

Changed wording from “whose only emissions are fugitive” to “with only fugitive emissions” for simplicity.

R. 61-62.1, Section II.B.6:

Added the sentence “The Department reserves the right to require a construction permit and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.” to allow for the requirement of construction permits for facilities where other avenues of compliance are ineffective.

R. 61-62.1, Section II.C.3.c:

Corrected to specify that a facility’s Federal “Employer” Identification is necessary and added “Federal Tax ID Number” for clarity.

R. 61-62.1, Section II.C.3.d:

Amended to require applications include Standard Industrial Classification (SIC) and North American Industry Classification System (NAICS) codes.

R. 61-62.1, Section II.G.4:

Added “or modified” to the title.

R. 61-62.1, Section II.H.4.c:

Corrected to specify that a facility’s Federal “Employer” Identification is necessary and added “Federal Tax ID Number” for clarity.

R. 61-62.1, Section II.I.1.b:

Corrected typographical and punctuation errors.

R. 61-62.1, Section II.I.2.a:

Revised to add “The Department reserves the right to require a construction or operating permit and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.” after the first sentence to allow for Department discretion in requiring a construction permit.

R. 61-62.1, Section II.I.3.a:

Reworded to specify that Registration Permits should contain any “applicable” conditions to simplify permit process as the department finds appropriate.

R. 61-62.1, Section II.J.1:

Specified that the permit conditions apply to “construction and operating” permits

R. 61-62.1, Section II.J.1.b:

Added “Any false information or misrepresentation in the application for a construction or operating permit may be grounds for permit revocation.” to provide for penalties for providing false information.

R. 61-62.1, Section II.J.1:

Added section: “g. A copy of the Department issued construction and/or operating permit must be kept readily available at the facility at all times. The permittee shall maintain such operational records; make reports; install, use, and maintain monitoring equipment or methods; sample and analyze emissions or discharges in accordance with prescribed methods, at locations, intervals, and procedures as the Department shall prescribe; and provide such other information as the Department reasonably may require. All records required to demonstrate compliance with the limits established under this permit shall be maintained on site for a period of at least five (5) years” To allow for record retention and availability clause in permits.

R. 61-62.1, Section II.N.5:

Removed reference to operating permits since the section only refers to construction permits.

R. 61-62.1, Section II:

Added new section: “O. Inspection and Entry,” which allows for inspection and entry of regulated facilities pursuant to the Pollution Control Act.

**S.C. Regulation 61-62.3, Air Pollution Episodes**

R. 61-62.3, Sections I.2 through 3:

Corrected grammar by adding “or” for clarification.

R. 61-62.3, Section I.4:

Corrected typographical error in units of PM<sub>10</sub>, SO<sub>2</sub>, and O<sub>3</sub> by changing to µg/m<sup>3</sup>.

**S.C. Regulation 61-62.5 Standard 1, Emissions From Fuel Burning Operations**

R. 61-62.5 Standard 1, Section I.C:

Excluded the requirement for natural gas fired units to maintain a log of periods of startup and shutdown.

**S.C. Regulation 61-62.5 Standard 2, Ambient Air Quality Standards**

Amended table to delete TSP standard. Also included exceedence limitation footnote for CO standard and reference for rolling 3-month average calculation for lead.

**S.C. Regulation 61-62.5 Standard 4, Emissions From Process Industries**

61-62.5 Standard 4, Section V – Cotton Gins:

Amending entirety of section to go from a process rate based regulation to control based regulation.

61-62.5 Standard 4, Section XII.B – Total Reduced Sulfur:

Amended such that the obsolete requirement for TRS stack testing will not be required for facilities that are already required to have CEMs installed.

**S.C. Regulation 61-62.5 Standard 6, Alternative Emission Limitation Options (“Bubble”)**

Based on the United States Environmental Protection Agency (EPA) disapproval of this regulation in the SC State Implementation Plan (SIP), the entirety of this regulation is being removed and reserved.

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### S.C. Regulation 61-62.5 Standard 7, Prevention of Significant Deterioration

R. 61-62.5 Standard 7.q.2:

Replaced instances of “plant” with “source” to maintain consistency throughout the regulations.

R. 61-62.5 Standard 7.q.3:

Replaced “Review of Major Stationary Sources and Major Modifications” with “Exemptions” to correct reference error.

R. 61-62.5 Standard 7.r.4:

Replaced (s) with (r) to correct reference error.

R. 61-62.5 Standard 7.w.1:

Removed reference to “paragraph (s)” due to reference error.

### S.C. Regulation 61-62.5 Standard 7.1, Non Attainment New Source Review

R. 61-62.5 Standard 7.1.c.7.A:

Expanded definition of “Major Stationary Source” to account for ozone designations under subpart 2 of the Clean Air Act.

### S.C. Regulation 61-86.1, Standards of Performance for Asbestos Projects

R. 61-86.1, Section XX.A.4:

Added exemption for building inspection frequency for industrial manufacturing and electrical generating facilities.

R. 61-86.1, Section XX.J.3:

Added text to change the required frequency of building inspections for industrial manufacturing and electrical generating facilities from 3 years to 5 years.

#### Instructions:

Amend Regulation 61-62, Air Pollution Control Regulations and Standards, and 61-86.1, Standards of Performance for Asbestos Projects, pursuant to each individual instruction provided below with the text of the amendments.

#### Text:

#### R. 61-62.1, Definitions and General Requirements:

#### SECTION I - DEFINITIONS

**Regulation 61-62.1, Section I(15)-(100), shall be revised as follows, to include new definitions at 15, 64, and 65; move definitions 57 and 58; make changes to definitions 19, 23, 27, 30, 45, and 85; delete definition 86; and reenumerate definition section from 15 to end as necessary:**

15. CAA - The Clean Air Act, as amended, 42 U.S.C. 7401, *et seq.* Also referred to as “the Act.”

16. Chemotherapeutic Waste - All waste resulting from the production or, use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. Chemotherapeutic waste shall not include any waste containing antineoplastic agents that are listed as hazardous waste under S.C. Hazardous Waste Management Regulation 61-79.261.

17. Clean Wood - Untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include yard waste, which is defined elsewhere in this Section, or construction, renovation, and demolition waste (including but not limited to railroad ties and telephone poles).

18. Commercial Incinerator - An incinerator that burns non-hazardous waste from commercial activities with a design capacity of no more than 1250 lb/hr and which burns no more than 6 tons/day. Incinerators of this type not meeting these limits are considered municipal waste combustors. This definition does not include retail and industrial incinerators nor does it include waste from maintenance activities at commercial establishments.

19. Commissioner - Commissioner means the Commissioner of the Department of Health and Environmental Control.

20. Conditional major source - A stationary source that obtains a federally enforceable physical or operational limitation from the Department to limit or cap the stationary source's potential to emit to avoid being defined as a major source as defined by applicable Federal and State regulations.

21. Continuous emission monitoring system or CEMS - a monitoring system for continuously measuring and recording the emissions of a pollutant from an affected facility.

22. "Continuous program of physical on-site construction" - Means significant and continuous site preparation work such as major clearing or excavation followed by placement of footings, pilings, and other materials of construction, assembly, or installation of unique facilities or equipment at the site of the source. With respect to a change in the method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

23. Crematory Incinerator - Any incinerator designed and used solely for the burning of human remains or animal remains.

24. Department - Department means the South Carolina Department of Health and Environmental Control.

25. Dioxins/furans - the combined emissions of tetra- through octa-chlorinated dibenzo-paradioxins and dibenzofurans, as measured by EPA Reference Method 23.

26. Emission Data - The definition contained in 40 CFR 2.301(a)(2), July 1, 1986, is incorporated by reference.

27. Emission Limitation (and emission standard) - A requirement established by the State or by the Administrator of the Environmental Protection Agency which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

28. Federally enforceable - All limitations and conditions which are enforceable by the Administrator of the U.S. Environmental Protection Agency (EPA) and citizens under the Act, including those requirements developed pursuant to 40 CFR 60, 61, 63, and 70, requirements within the South Carolina State Implementation Plan (SIP), and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51, Subpart I, including operating permits issued under an EPA-approved program that is incorporated into the SIP and expressly requires adherence to any permit issued under such program.

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29. Fuel Burning Operation - Use of furnace, boiler, device or mechanism used principally but not exclusively, to burn any fuel for the purpose of indirect heating in which the material being heated is not contacted by and adds no substance to the products of combustion.

30. Fugitive Dust - A type of particulate emission that becomes airborne by forces of wind, man's activity or both, including but not limited to, construction sites, tilled land, materials storage piles, and materials handling.

31. Fugitive Emissions - Emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

32. Garbage - Animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

33. Hazardous Air Pollutant - A pollutant which is the subject of National Emission Standards for Hazardous Air Pollutants promulgated by the United States Environmental Protection Agency by publication in the Federal Register.

34. Hazardous Waste - Any waste identified as such by South Carolina Hazardous Waste Management Regulation 61-79.

35. Hazardous Waste Fuel - Hazardous waste that has a heat value greater than 5000 BTU/lb. and is burned in an industrial or utility boiler or industrial furnace for energy recovery, except for hazardous wastes exempted by Section 266.30(b) of South Carolina Hazardous Waste Management Regulation 61-79.

36. Hazardous Waste Incinerator - An incinerator whose primary function is to combust hazardous waste, except for devices which have qualified for exemption as provided in Sections 264.340(b) or 265.340(b) of South Carolina Hazardous Waste Management Regulation 61-79.

37. Hospital - any facility which has an organized medical staff, maintains at least six inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of 24 hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuing medical supervision.

38. Hospital/medical/infectious waste incinerator or HMIWI or HMIWI unit - any device that combusts any amount of hospital waste and/or medical/infectious waste.

39. Hospital waste - discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

40. Incinerator - Any engineered device used in the process of controlled combustion of waste for the purpose of reducing the volume, removing the contamination and/or reducing or removing the hazardous potential of the waste charged by destroying combustible matter leaving the noncombustible ashes, material and/or residue and which does not meet the criteria nor classification as a boiler nor is listed as an industrial furnace.

41. Industrial Boiler - A boiler that produces steam, heated air, or other heated fluids for use in a manufacturing process.

42. Industrial Furnace - Any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

- a. Cement kilns
- b. Lime kilns
- c. Aggregate kilns
- d. Phosphate kilns
- e. Coke ovens
- f. Blast furnaces
- g. Smelting, melting and refining furnaces (including pyrometallurgical devices such as tray furnaces, cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces)
- h. Titanium dioxide chloride process oxidation reactors
- i. Methane reforming furnaces
- j. Pulping liquor recovery furnaces
- k. Combustion devices used in the recovery of sulfur values from spent sulfuric acid
- l. Such other devices as the Department may determine on a case by case basis using one or more of the following factors:
  - i. The design and use of the device primarily to accomplish recovery of material products;
  - ii. The use of the device to burn or reduce raw materials to make a material product;
  - iii. The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;
  - iv. The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;
  - v. The use of the device in common industrial practice to produce a material product; and,
  - vi. Other factors, as appropriate.

43. Industrial Incinerator - Any incinerator utilized in an industrial plant that does not meet the definition for any other type incinerator or an incinerator used to combust Type 5 or 6 waste at any site.

44. In Existence - Means that the owner or operator has obtained all necessary construction permits required by this Bureau and either has (a) begun, or caused to begin, a continuous program of physical on-site construction of the source or (b) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time, or that the owner or operator possesses a valid operating permit for the source prior to the effective date of a regulation or standard.

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45. Kraft pulp mill - Any stationary source which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at a high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.

46. Major Source - Except as otherwise provided, this term refers to any plant which directly emits, or has the potential to emit greater than or equal to the major source threshold as defined by applicable Federal and State regulations.

47. Malfunction - any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused, in part, by poor maintenance or careless operation are not malfunctions. During periods of malfunction the operator shall operate within established parameters as much as possible, and monitoring of all applicable operating parameters shall continue until all waste has been combusted or until the malfunction ceases, whichever comes first.

48. Mass Emission Rate - The weight discharged per unit of time.

49. Medical/infectious waste - any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals listed below, and any waste defined as infectious waste in R.61-105, *Infectious Waste Management*. The definition of medical/infectious waste does not include hazardous waste identified or listed in R.61-79.261, *Hazardous Waste Management*; household waste, as defined in R.61-79.261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials identified in R.61-79.261.4(a)(1).

a. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

b. Human pathological waste - tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers.

c. Human blood and blood products including:

- i. Liquid waste human blood;
- ii. Products of blood;
- iii. Items saturated and/or dripping with human blood; or

iv. Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

d. Sharps - instruments used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.

e. Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

f. Isolation wastes - biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from highly communicable diseases, or isolated animals known to be infected with highly communicable diseases.

g. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

50. Multiple-Chamber Incinerator - An incinerator consisting of at least two refractory lined combustion chambers (primary and secondary) in series, physically separated by refractory walls, interconnected by gas passage ports or ducts.

51. Municipal Solid Waste, MSW or Municipal-type Solid Waste - Household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional wastes include:

- a. Yard waste;
- b. Refuse-derived fuel; and
- c. Motor vehicle maintenance materials limited to vehicle batteries and tires.

Household, commercial/retail, and institutional waste (MSW) does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes but is not limited to railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes (including type 5 or 6 waste); medical waste; radioactive contaminated waste; hazardous waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

52. Municipal Waste Combustor, MWC, or Municipal Waste Combustor Unit - Any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (i.e., steam generating units) and furnaces (whether suspension-fired, grate-fired, mass-fired, or fluidized bed-fired, etc.), air curtain incinerators, and pyrolysis/combustion units. Municipal waste combustors do not include pyrolysis/combustion units located at a plastics/rubber recycling units. Municipal waste combustors do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

For the purpose of determining reconstruction or modification, as defined in 40 CFR 60, Subpart A or Regulation 62.5, Standard 3, to a municipal waste combustor the following applies:

a. The boundaries of a municipal solid waste combustor are defined as follows. The municipal waste combustor unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustor water system. The municipal waste combustor boundary starts at the municipal solid waste pit or hopper and extends through:

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i. The combustor flue gas system, which ends immediately following the heat recovery equipment or, if there is no heat recovery equipment, immediately following the combustion chamber;

ii. The combustor bottom ash system, which ends at the truck loading station or similar ash handling equipment that transfer the ash to final disposal, including all ash handling systems that are connected to the bottom ash handling system; and

iii. The combustor water system, which starts at the feed water pump and ends at the piping exiting the steam drum or superheater.

b. The municipal waste combustor unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set.

53. Non-Industrial Boiler - Any boiler not classified as an industrial boiler.

54. Non-Industrial Furnace - Any furnace not classified as an industrial furnace.

55. Non-Spec. Oil (Off-Spec. Oil) - See definition of used oil.

56. Opacity - The degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

57. Open Burning - Any fire or smoke-producing process which is not conducted in any boiler plant, furnace, high temperature processing unit, incinerator or flare, or in any other such equipment primarily designed for the combustion of fuel or waste material.

58. Part 70 permit - Any permit or group of permits covering a source subject to the permitting requirements of S.C. Regulation 61-62.70. The use of the term "Title V Permit" shall be construed to mean "Part 70 Permit."

59. Particulate Matter - Any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions.

60. Particulate Matter Emissions - All finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method described in 40 CFR 60, July 1, 1987, or an equivalent or alternative method approved by the Department, with the concurrence of the U. S. Environmental Protection Agency.

61. Pathological waste - waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material, and animal bedding (if applicable).

62. Plant - Except as otherwise provided, any stationary source or combination of stationary sources, which is located on one or more contiguous or adjacent properties and owned or operated by the same person(s) under common control.

63. Plastics/Rubber Recycling Unit - An integrated processing unit where plastics, rubber, and/or rubber tires are the only feed materials (incidental contaminants may be included in the feed materials) and they are processed into a chemical plant feedstock or petroleum refinery feedstock, where the feedstock is marketed to and used by a chemical plant or petroleum refinery as input feedstock. The combined weight of the chemical plant feedstock and petroleum refinery feedstock produced by the plastics/rubber recycling unit on a calendar quarter basis shall be more than 70 percent of the combined weight of the plastics, rubber, and rubber tires processed by the plastics/rubber recycling unit on a calendar quarter basis. The plastics, rubber, and/or rubber

tire feed materials to the plastics/rubber recycling unit may originate from the separation or diversion of plastics, rubber, or rubber tires from MSW or industrial solid waste, and may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards. The plastics, rubber, and rubber tire feed materials to the plastics/rubber recycling unit may contain incidental contaminants (e.g., paper labels on plastic bottles, metal rings on plastic bottle caps, etc.).

64.  $PM_{2.5}$  – Particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method based on Appendix L of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR 53.

65.  $PM_{2.5}$  Emissions - Finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers emitted to the ambient air as measured by a reference method approved by the Department, with concurrence of the U. S. Environmental Protection Agency.

66.  $PM_{10}$  - Particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on Appendix J of 40 CFR 50 and designated in accordance with 40 CFR 53 or by an equivalent method designated in accordance with 40 CFR 53.

67.  $PM_{10}$  Emissions - Finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by a reference method approved by the Department, with concurrence of the U. S. Environmental Protection Agency.

68. Potential to Emit - The maximum capacity of a plant to emit a regulated pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the plant to emit a regulated pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a plant.

69. Process Industry - Any source engaged in the manufacture, processing, handling, treatment, forming, storing or any other action upon materials except fuel-burning operations.

70. Process Weight - The total weight of all materials introduced into a source operation, including air and water where these materials become an integral part of the product, and solids used as fuels but excluding liquids and gases used solely as fuels.

71. Process Weight Rate - A rate established as follows:

a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

b. For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply.

72. Pyrolysis/Combustion Unit - A unit that produces gases, liquids, or solids through the heating of waste, and the gases, liquids, or solids produced are combusted and emissions vented to the atmosphere.

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73. Refuse - Garbage, rubbish and/or trade waste.
74. Refuse-derived Fuel - A type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including low-density fluff refuse-derived fuel through densified refuse-derived fuel and pelletized refuse-derived fuel.
75. Retail Business Type Incinerator - An incinerator that combusts waste typical of a retail business rather than domestic, commercial, or industrial activities.
76. Rubbish - Solid wastes from residences and dwellings, commercial establishments, and institutions.
77. Salvage Operations - Any operation of a business, trade, or industry engaged in whole or in part in salvaging or reclaiming any product or material including, but not limited to, metals, chemicals, shipping containers, drums or automobiles.
78. Secondary Emissions - Emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself. Secondary emissions shall be specific, well defined, quantifiable, and shall impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:
- a. emissions from ships or trains moving to or from the new or modified source.
  - b. emissions from any offsite support operation which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major source or major modification.
79. Sludge Incinerator - An incinerator that combusts wastes containing more than 10% (dry weight basis) sludge produced by municipal or industrial waste water treatment plants or each incinerator that charges more than 2205 lb/day (dry weight basis) of sludge produced by municipal or industrial wastewater treatment plants.
80. Smoke - Small gasborne and airborne particles arising from a process of combustion in sufficient number to be observable by a person of normal vision under normal conditions.
81. Solid Fuel - A fuel which is fired as a solid such as coal, lignite and wood.
82. Spec. Oil - See definition of used oil.
83. Stack - Any flue, conduit, chimney, or opening arranged to conduct an effluent into the open air.
84. Stack Height - The vertical distance measured in feet between the point of discharge from the stack or chimney into the outdoor atmosphere and the elevation of the land thereunder.
85. Standard Conditions - 760 millimeters of mercury at 25° Centigrade.
86. Stationary Source - Any building, structure, installation or process which emits or may emit an air pollutant subject to regulation by any national or state standard. Use of the term "source" is to be construed to mean "stationary source."
87. Substantial loss - Generally means a loss which would equal or exceed 10 percent of the total initial project cost.

88. Synthetic minor source - A stationary source that obtains a federally enforceable physical or operational limitation from the Department to limit or cap the stationary source's potential to emit to avoid being defined as a major source or major modification, as defined by applicable Federal and State regulations.

89. Total reduced sulfur (TRS) - The sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during the kraft pulping operation.

90. Total Suspended Particulate (TSP) - Particulate matter as measured by the method described in Appendix B, 40 CFR 50, July 1, 1987.

91. Trade Waste - All solid, liquid or gaseous material or rubbish resulting from construction, building operations, or the prosecution of any business, trade or industry including, but not limited to, plastic products, cartons, paint, grease, oil and other petroleum products, chemicals and cinders.

92. Untreated lumber - Wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or "pressure-treated." Pressure-treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

93. Used Oil - Any oil that has been refined from crude or synthetic oil and as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and may be economically recyclable. This also includes absorbent material contaminated with used oil such as oily rags or absorbent blankets. Two types of used oil are defined as follows:

a. Spec. Oil (Specification Oil) - Used oil that meets the following specifications: \*

- i. Arsenic - 5 ppm maximum
- ii. Cadmium - 2 ppm maximum
- iii. Chromium - 10 ppm maximum
- iv. Lead - 100 ppm maximum
- v. Nickel - 120 ppm maximum
- vi. Total halogens - 4000 ppm maximum\*\*
- vii. Flash Point - 100°F (37.8°C) minimum

\*This specification does not apply to used oil fuel mixed with a hazardous waste.

\*\*Used oil containing more than 1000 ppm total halogens is presumed to be a hazardous waste. The burden of proof that this is not true rests with the user.

b. Non-Spec. Oil (Off-Spec. Oil) - Used oil that does not meet the specification above.

94. Utility Boiler - A boiler that produces steam, heated air, or other heated fluids for sale or for use in producing electric power for sale.

95. Virgin Fuel - Unused solid, liquid, or gaseous commercial fuel. Also, clean wood or bark that has not been processed other than for size reduction excluding clean wood or bark burned in an air curtain incinerator.

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96. Volatile Organic Compound (VOC) - Any organic compound which participates in atmospheric photochemical reactions; or which is measured by a reference method (as specified in 40 CFR 60, as of July 1, 1990), an equivalent method, an alternative method, or which is determined by procedures specified under any subpart of 40 CFR 60. This includes compounds other than the following compounds:

acetone;

(CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OC<sub>2</sub>H<sub>5</sub> (2-(ethoxydifluoromethyl)-(1,1,1,2,3,3,3-heptafluoropropane);

((CF<sub>3</sub>)<sub>2</sub>CFCF<sub>2</sub>OCH<sub>3</sub>) (2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane);

CFC-11 (trichlorofluoromethane);

CFC-12 (dichlorodifluoromethane);

CFC-113 (1,1,2-trichloro-1,2,2-trifluoroethane);

CFC-114 (1,2-dichloro-1,1,2,2-tetrafluoroethane);

CFC-115 (chloropentafluoroethane);

dimethyl carbonate;

ethane;

HCFC-22 (chlorodifluoromethane);

HCFC-31 (chlorofluoromethane);

HCFC-123 (1,1,1-trifluoro-2,2-dichloroethane);

HCFC-123a (1,2-dichloro-1,1,2-trifluoroethane);

HCFC-124 (2-chloro-1,1,1,2-tetra-fluoroethane);

HCFC-134a (1,1,1,2-tetrafluoroethane);

HCFC-141b (1,1-dichloro-1-fluoroethane);

HCFC-142b (1-chloro-1,1-difluoroethane);

HCFC-151a (1-chloro-1-fluoroethane);

HCFC 225ca (3,3-dichloro-1,1,1,2,2-pentafluoropropane);

HCFC 225cb (1,3-dichloro-1,1,2,2,3-pentafluoropropane);

HFC-23 (trifluoromethane);

HFC-32 (difluoromethane);

HFC 43-10mee (1,1,1,2,3,4,4,5,5,5-decafluoropentane);

HFC-125 (pentafluoroethane);

HFC-134 (1,1,2,2-tetrafluoroethane);

HFC-143a (1,1,1-trifluoroethane);

HFC-152a (1,1-difluoroethane);

HFC-161 (ethylfluoride);

HFC 227ea (1,1,1,2,3,3,3-heptafluoropropane);

HFC-236ea (1,1,1,2,3,3,3-hexafluoropropane);

HFC-236fa (1,1,1,3,3,3-hexafluoropropane);

HFC-245ca (1,1,2,2,3-pentafluoropropane);

HFC-245ea (1,1,2,3,3-pentafluoropropane);

HFC-245eb (1,1,1,2,3-pentafluoropropane);

HFC-245fa (1,1,1,3,3-pentafluoropropane);

HFC-365mfc (1,1,1,3,3-pentafluorobutane);

HFE-7000 (1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane) or (n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub>);

HFE-7100 (1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane) or (C<sub>4</sub>F<sub>9</sub>OCH<sub>3</sub>);

HFE-7200 (1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane) or (C<sub>4</sub>F<sub>9</sub>OC<sub>2</sub>H<sub>5</sub>);

HFE-7300 (1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane);

HFE-7500 (3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane);

methane;

methyl acetate;

methyl chloroform (1,1,1-trichloroethane);

methylene chloride (dichloromethane);

methyl formate (HCOOCH<sub>3</sub>);

parachlorobenzotrifluoride (PCBTF);

perchloroethylene (tetrachloroethylene);

perfluorocarbon compounds that fall into these classes:

(i) cyclic, branched, or linear, completely fluorinated alkanes;

(ii) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(iii) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations;

(iv) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine;

propylene carbonate; and

volatile methyl siloxanes (cyclic, branched, or linear completely methylated siloxanes) (VMS).

These compounds have been determined to have negligible photochemical reactivity. For purposes of determining compliance with emission limits, VOC will be measured by the approved test methods. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate (TBAC or TBAC).

97. Waste - Any discarded material including but not limited to used oil, hazardous waste fuel, hazardous waste, medical waste, municipal solid waste, sludge, waste fuel, and waste classification Types 0 through 6 or any material which as a result of use, storage, or handling has become unsuitable for its original purpose due to the presence of impurities or loss of original properties.

a. Type 0 - Trash, a mixture of highly combustible waste such as paper, cardboard, wood boxes, and combustible floor sweepings, from commercial and industrial activities. The mixture contains up to 10% by weight of plastic bags, coated paper, laminated paper, treated corrugated cardboard, oily rags and plastic or rubber scraps.

Typical composition: 10% moisture, 5% incombustible solids and has a heating value of approximately 8500 BTU per pound as fired.

b. Type 1 - Rubbish, a mixture of combustible waste such as paper, cardboard cartons, wood scrap, foliage and combustible floor sweepings, from domestic, commercial and industrial activities. The mixture contains up to 20% by weight of restaurant or cafeteria waste, but contains little or no treated papers, plastic or rubber wastes.

Typical composition: 25% moisture, 10% incombustible solids and has a heating value of approximately 6500 BTU per pound as fired.

c. Type 2 - Refuse, consisting of an approximately even mixture of rubbish and garbage by weight. This type of waste is common to apartment and residential occupancy.

Typical composition: up to 50% moisture, 7% incombustible solids, and has a heating value of approximately 4300 BTU per pound as fired.

d. Type 3 - Garbage, consisting of animal and vegetable wastes from restaurants, cafeterias, hotels, hospitals, markets, and like installations.

Typical composition: up to 70% moisture, up to 5% incombustible solids and has a heating value of approximately 2500 BTU per pound as fired.

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e. Type 4 - Human and animal remains, consisting of carcasses, organs and solid organic wastes from hospitals, laboratories, abattoirs, animal pounds, and similar sources.

Typical composition: up to 85% moisture, 5% incombustible solids, and having a heating value of approximately 1000 BTU per pound as fired.

f. Type 5 - By-product waste, gaseous, liquid or semi-liquid, such as tar, paints, solvents, sludge, fumes, etc., from industrial operations. BTU values shall be determined by the individual materials to be destroyed.

g. Type 6 - Solid by-product waste, such as rubber, plastics, wood waste, etc., from industrial operations. BTU values shall be determined by the individual materials to be destroyed.

98. Waste Fuel - Waste that does not meet hazardous waste criteria but has a heat value greater than 5000 BTU/lb.

99. Yard waste - Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that are generated by residential, commercial/retail, institutional, and/or industrial sources as part of maintenance activities associated with yards or other private or public lands. Yard waste does not include construction, renovation, and demolition wastes, which are exempt from the definition of municipal solid waste in this Section. Yard waste does not include clean wood, which is also exempt from the definition of municipal solid waste in this Section.

## SECTION II - PERMIT REQUIREMENTS

**Regulation 61-62.1, Section II will have an introduction added before subsection (A) as follows:**

The following regulation will not supersede any State or Federal requirements nor special permit conditions, unless this regulation would impose a more restrictive emission limit. The owner or operator shall comply with all terms, conditions, and limitations of any Department-issued permit for sources or activities at its facility. A source's permit status may change upon promulgation of new regulatory requirements.

**Regulation 61-62.1, Section II(A) shall be revised as follows:**

### A. Construction Permits

#### 1. Applicability

a. Except as allowed under paragraphs (c) and (d) below, any person who plans to construct, alter or add to a source of air contaminants, including installation of any device for the control of air contaminant discharges, shall first obtain a construction permit from the Department prior to commencement of construction.

b. The Department may grant permission to proceed with minor alterations or additions without issuance of a construction permit when the Department determines that the alteration or addition will not increase the quantity and will not alter the character of the source's emissions.

c. The owners or operators of sources not requesting to use Federally enforceable construction permit conditions to limit potential to emit, sources not subject to regulations with more stringent start of construction limitations, or sources not otherwise exempt from permit requirements, may undertake the following on-site activities prior to obtaining a construction permit:

- i. Planning;
- ii. Engineering and design;

- iii. Geotechnical investigation;
- iv. Site land clearing and grading;
- v. Setting up temporary trailers to house construction staff and contractor personnel;
- vi. Ordering of equipment and materials;
- vii. Receipt and storing of equipment;
- viii. Pouring of the foundation up to and including the mounting pads and slab on grade;
- ix. Relocation of utilities; and,
- x. For existing sources, relocation/installation of piping, electrical service, and instrumentation.

d. In the event that the source does not qualify for issuance of a construction permit, the owners or operators accept the financial risk of commencing these activities.

2. No permit to construct or modify a source will be issued if emissions interfere with attainment or maintenance of any State or Federal standard.

3. The owner or operator shall submit written notification to the Department of the date construction is commenced, postmarked no later than 30 days after such date, and written notification of the actual date of initial startup of each new or altered source, postmarked within 15 days after such date.

4. Approval to construct shall become invalid if construction:

- a) Is not commenced within 18 months after receipt of such approval,
- b) Is discontinued for a period of 18 months or more, or
- c) Is not completed within a reasonable time as deemed by the Department.

5. The Department may extend the construction permit for an additional 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

**Regulation 61-62.1, Section II(B)(2)(h) shall be revised as follows:**

h. Sources with a total uncontrolled emission rate of less than 1 lb/hr each of particulates, sulfur dioxide, nitrogen oxides, and carbon monoxide; and a total uncontrolled emission rate of less than 1000 lbs/month of VOC will not require construction permits. However, these sources may be required to be included in any subsequent construction or operating permit review to ensure that there is no cause or contribution to an exceedance of any ambient air quality standard or limit. For toxic air pollutant exemptions, refer to S.C. Regulation 61-62.5, Standard No. 8. Emissions calculations and any other information necessary to document qualification for this exemption must be maintained onsite and provided to the Department upon request

**Regulation 61-62.1, Section II(B)(3) shall be revised as follows:**

3. The Department will place the exempt sources listed in Section II (B)(2)(a) through (g), and other sources that have been determined will not interfere with the attainment or maintenance of any State or Federal standard, on a list of sources to be exempted without further review. The list of sources that are exempt without further review from the requirement to obtain a construction permit will be maintained by the Department and periodically published in the *South Carolina State Register* for use by the public and the regulated community.

**Regulation 61-62.1, Section II(B)(4) shall be revised as follows:**

4. Sources with only fugitive emissions must submit source information, and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not

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be limited to the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

### **Regulation 61-62.1, Section II(B)(6) shall be revised as follows:**

6. The construction permitting exemptions in Section II (B) do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements. The Department reserves the right to require a construction permit and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

### **Regulation 61-62.1, Section II(C)(3)(c) and (d) shall be revised as follows:**

c. The facility's Federal Employer Identification Number or Federal Tax ID Number;

d. A description and the U. S. Standard Industrial Classification (SIC) Code and North American Industry Classification System (NAICS) Code of the products or product lines to be produced by the proposed sources covered by this application;

### **Regulation 61-62.1, Section II(G)(4)'s title shall be revised as follows:**

4. New or Modified Sources

### **Regulation 61-62.1, Section II(H)(4)(c) shall be revised as follows:**

c. The facility's Federal Employer Identification Number or Federal Tax ID Number;

### **Regulation 61-62.1, Section II(I)(1)(b) shall be revised as follows:**

b. Registration permits will be developed only for specific stationary source groups with uncontrolled potential to emit less than the threshold for major source groups, in accordance with S.C. Regulation 61-62.70, Title V Operating Permit Program; S.C. Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; S.C. Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review; and where equipment similarities and simplicity remove the need for in depth site-specific review.

### **Regulation 61-62.1, Section II(I)(2)(a) shall be revised as follows:**

a. A source that qualifies may elect to apply to the Department for coverage under a registration permit in lieu of a construction and operating permit as provided in Regulation 61-62.1, Section II (A) and (F). The Department shall grant the registration permit to sources certifying qualification for and agreeing to the conditions and terms of the registration permit applicable to similar sources. The source shall be subject to enforcement action for operation without a valid permit if the source is later determined not to qualify for the conditions and terms of the registration permit. The Department reserves the right to require a construction or operating permit and the need for permit(s) will be made by the Department on a case-by-case basis. This determination will take into consideration, but will not be limited to the nature and amount of the pollutants, location, proximity to residences and commercial establishments, etc.

### **Regulation 61-62.1, Section II(I)(3)(a) shall be revised as follows:**

a. Registration Permits shall contain any applicable permit conditions listed in Section II (J) as the Department finds appropriate.

**Regulation 61-62.1, Section II(J)(1) shall be revised as follows:**

## 1. Standard Permit Conditions

All construction and operating permits shall contain the following standard permit conditions.

- a. No applicable law, regulation or standard will be contravened.
- b. All official correspondence, plans, permit applications and written statements are an integral part of the permit. Any false information or misrepresentation in the application for a construction or operating permit may be grounds for permit revocation.
- c. For sources not required to have continuous emission monitors, any malfunction of air pollution control equipment or system, process upset or other equipment failure which results in discharges of air contaminants lasting for one hour or more and which are greater than those discharges described for normal operation in the permit application shall be reported to the Department within twenty-four hours after the beginning of the occurrence and a written report shall be submitted to the Department within thirty (30) days. The written report shall include as a minimum, the following:
  - i. The identity of the stack and/or emission point where the excess emissions occurred;
  - ii. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the excess emissions;
  - iii. The time and duration of the excess emissions;
  - iv. The identity of the equipment causing the excess emissions;
  - v. The nature and cause of such excess emissions;
  - vi. The steps taken to remedy the malfunction and the steps taken or planned to prevent the recurrence of such malfunction;
  - vii. The steps taken to limit the excess emissions; and,
  - viii. Documentation that the air pollution control equipment, process equipment, or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions.
- d. Sources required to have continuous emission monitors shall submit reports as specified in applicable parts of the permit, law, regulations, or standards.
- e. Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to enforcement action.
- f. Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

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g. A copy of the Department issued construction and/or operating permit must be kept readily available at the facility at all times. The permittee shall maintain such operational records; make reports; install, use, and maintain monitoring equipment or methods; sample and analyze emissions or discharges in accordance with prescribed methods, at locations, intervals, and procedures as the Department shall prescribe; and provide such other information as the Department reasonably may require. All records required to demonstrate compliance with the limits established under this permit shall be maintained on site for a period of at least five (5) years.

### **Regulation 61-62.1, Section II(N)(5) shall be revised as follows:**

5. Any proposed new or modified stationary source required to undergo a public comment period shall not commence any construction until all public participation procedures of this section are completed, and the source has received an effective construction permit from the Department.

### **Regulation 61-62.1, Section II(O) shall be added to the end of Section II as follows:**

#### **O. Inspection and Entry**

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the Department or an authorized representative to perform the following:

1. Enter the facility where emissions-related activity is conducted, or where records must be kept under the conditions of the permit.
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.
3. Inspect any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under this permit.
4. As authorized by the Federal Clean Air Act and/or the SC Pollution Control Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

#### **R. 61-62.3, Air Pollution Episodes:**

### **Regulation 61-62.3, Section I(2)-(4) shall be revised as follows:**

2. WATCH - This level will be activated when continuous air quality monitoring indicates that one of the following pollutant concentrations has been reached:

PM<sub>10</sub> - 350 µg/m<sup>3</sup>, 24-hour average;

SO<sub>2</sub> - 400 µg/m<sup>3</sup> (0.15 p.p.m.), 24-hour average; or

O<sub>3</sub> (Ozone) - 400 µg/m<sup>3</sup> (0.2 p.p.m.), 1-hour average;

and meteorological conditions are such that the pollutant concentrations can be expected to remain at the above levels for twelve (12) hours or more, or increase, or in the case of ozone, the situation is likely to recur within the next 24 hours unless control actions are taken.

3. ALERT - This level indicates that air quality is continuing to deteriorate and that additional control actions are necessary. An alert will be declared when monitoring indicates that one of the following pollutant concentrations has been reached:

PM<sub>10</sub> - 420 µg/m<sup>3</sup>, 24-hour average;

SO<sub>2</sub> - 800 µg/m<sup>3</sup> (0.3 p.p.m.), 24-hour average; or

O<sub>3</sub> (Ozone) - 800 µg/m<sup>3</sup> (0.4 p.p.m.), 1-hour average;

and meteorological conditions are such that pollutant concentrations can be expected to remain at the above levels for twelve (12) hours or more, or increase, or in the case of ozone, the situation is likely to recur within the next 24 hours unless control actions are taken.

4. EMERGENCY - The primary objective of this plan is to prevent this level from ever being reached; however, should this level be reached the most stringent control actions are necessary. An emergency will be declared when monitoring indicates that one of the following pollutant concentrations has been reached:

PM<sub>10</sub> - 500 µg/m<sup>3</sup>, 24-hour average;

SO<sub>2</sub> - 1600 µg/m<sup>3</sup> (0.6 p.p.m.), 24-hour average; or

O<sub>3</sub> (Ozone) - 1000 µg/m<sup>3</sup> (0.5 p.p.m.), 1-hour average;

and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more, or increase, or in the case of ozone, the situation is likely to recur within the next 24 hours unless control actions are taken.

#### **R. 61-62.5 Standard 1, Emissions From Fuel Burning Operations:**

**Regulation 61-62.5 Standard 1, Section I(C) shall be revised as follows:**

#### **SECTION I - VISIBLE EMISSIONS**

##### **C. Special Provisions**

The opacity standards set forth above do not apply during startup or shutdown. Owners and operators shall, to the extent practicable, maintain and operate any source including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. In addition, the owner or operator of fuel burning sources except natural gas fired units, shall maintain a log of the time, magnitude, duration and any other pertinent information to determine periods of startup and shutdown and make available to the Department upon request.

#### **R. 61-62.5 Standard 2, Ambient Air Quality Standards:**

**Regulation 61-62.5 Standard 2 shall be revised as follows:**

The following table constitutes the ambient air quality standards for the State of South Carolina. The analytical methods to be used will be those applicable Federal Reference Methods published in 40 CFR 50, Appendices A-N as revised July 18, 1997. In the case of fluorides either the double paper tape sampler methods (ASTM D-3266-79) or the sodium bicarbonate-coated glass tube and particulate filter method (ASTM D3268-78) may be used.

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Pollutant	Measuring Interval	Micrograms Per Cubic Meter Unless Noted Otherwise <sup>(1) (2)</sup>
Sulfur Dioxide	3 hours	1300 <sup>(4)</sup>
	24 hours	365 <sup>(4)</sup>
	Annual	80
PM <sub>10</sub>	24 hours	150 <sup>(3)</sup>
	Annual	50 <sup>(3)</sup>
PM <sub>2.5</sub> (Primary and Secondary Standards)	24 hours	35 <sup>(3)</sup>
	Annual	15 <sup>(3)</sup>
Carbon Monoxide	1 hour	40 mg per cubic meter <sup>(4)</sup>
	8 hour	10 mg per cubic meter <sup>(4)</sup>
Ozone	8 hours	0.08 ppm <sup>(3) (5)</sup>
	8 hours	0.075 ppm <sup>(3)</sup>
Gaseous Fluorides (as HF)	12 hr. avg.	3.7
	24 hr. avg.	2.9
	1 wk. avg.	1.6
	1 mo. avg.	0.8
Nitrogen Dioxide	Annual	100
Lead	Rolling 3-month Average <sup>(6)</sup>	0.15

<sup>(1)</sup> Arithmetic Average except in case of total suspended particulate matter

<sup>(2)</sup> At 25<sup>o</sup> C and 760 mm Hg.

<sup>(3)</sup> Attainment determinations will be made based on the criteria contained in 40 CFR 50 Appendices H, I, K and N.

<sup>(4)</sup> Not to be exceeded more than once a year.

<sup>(5)</sup> The 1997 standard – and the implementation rules for that standard – will remain in place for implementation purposes as EPA undertakes rulemaking to address transition from the 1997 ozone standard to the 2008 ozone standard.

<sup>(6)</sup> Detailed explanation of the rolling 3-month average calculation can be found in 40 CFR 50.16

### R. 61-62.5 Standard 4, Emissions From Process Industries:

Regulation 61-62.5 Standard 4, Section V shall be revised in its entirety as follows:

#### SECTION V - COTTON GINS

##### A. Definitions

1. 1D-3D cyclone – Any cyclone-type collector of the 1D-3D configuration. This designation refers to the ratio of the cylinder to cone length, where D is the diameter of the cylinder portion. A 1D-3D cyclone has a cylinder length of 1xD and a cone length of 3xD.

2. 2D-2D cyclone – Any cyclone-type collector of the 2D-2D configuration. This designation refers to the ratio of the cylinder to cone length, where D is the diameter of the cylinder portion. A 2D-2D cyclone has a cylinder length of 2xD and a cone length of 2xD.

3. Bale – A compressed package of cotton lint weighing nominally 500 lbs.

4. Gin Yard - the land upon which a cotton gin is located and all contiguous land having common ownership or use.

5. Ginning operation – Any facility or plant that separates cotton lint from cotton seed. This process typically includes cleaning (removing plant material, dirt and other foreign matter) and packaging the lint into bales.

6. Ginning season – The period of time during which the gin is in operation; usually between (but not limited to) September of the current year and January of the following year.

7. High pressure exhausts – The exhaust air systems at a cotton gin preceding the gin stand (including unloading, drying, extracting, cleaning, and overflow handling systems) in which material is conveyed by a higher pressure air and is typically controlled by cyclones.

8. Low pressure exhausts – The exhaust air systems at a cotton gin following the gin stand (including lint cotton cleaning and battery formation process) in which material is conveyed by low pressure air and is typically controlled by condensers.

9. Removal efficiency – Percent of total particulate matter removed from the gas stream between a cyclone’s inlet and outlet.

**B. Applicability**

1. This rule applies to all existing, new, and modified cotton ginning operations in South Carolina. These facilities will be subject to registration permit conditions as specified in SC Regulation 61-62.1 Section II(I).

2. Existing facilities with a maximum gin stand rated capacity (or documented equipment limitation) of less than twenty (20) bales per hour that do not have cyclones on lint cleaning system exhausts and battery condenser exhausts as of promulgation date of this rule, will not be required to add the emission control devices in Paragraph (C)(2) to lint cleaning exhausts or battery condenser exhausts if emissions from these exhausts are controlled by fine mesh screens.

**C. Emission Control Requirements**

1. New facilities will be required to apply for a registration permit before commencement of construction. Existing facilities will be required to apply for a registration permit within 90 days of the promulgation date of this rule. Until such time that a registration permit is issued by the Department, existing cotton ginning operations should operate with existing permits.

2. Each cotton ginning operation shall install and operate a particulate emission control system on all high and low pressure exhausts and lint cleaning system exhausts that includes one or more 1D-3D or 2D-2D cyclones meeting the cylinder diameter requirements to produce a 3.5 to 6.0 or 3.0 to 5.5 inches of water pressure drop (respectively) as illustrated in Figure 6-20 and 6-21 of the Agricultural Handbook Number 503, *Cotton Ginners Handbook*, dated December 1994. Existing facilities shall comply with these control equipment requirements by August 31, 2012.

3. Air pollutant emissions shall not exceed 20 percent opacity.

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4. Stacks shall not be equipped with raincaps or other devices that deflect the emissions downward or outward.

5. Trash stacker areas shall contain one of the following:

a. A three sided enclosure with a roof whose sides are high enough above the opening of the dumping device to prevent wind from dispersing dust or debris; or

b. A device to provide wet suppression at the dump area of the trash cyclone and minimize free fall distance of waste material exiting the trash cyclone.

6. The owner or operator shall ensure that all trucks transporting gin trash material are covered and that the trucks are cleaned of over-spill material before trucks leave the trash hopper dump area.

7. Reasonable precautions should be taken when operating or maintaining storage piles, materials, equipment, or vehicles in order to prevent any substance from being scattered by the wind or air in order to prevent fugitive dust emissions in accordance with SC Regulation 61-62.6, Section II.

### D. Alternative Control Measures

The owner or operator of a cotton ginning operation may petition the Department to use alternative control measures to those specified in this rule. The petition shall include:

1. The name and address of the petitioner;

2. The location and description of the cotton ginning operation;

3. A description of the alternative control measure; and

4. A demonstration that the alternative control measure is at least as effective as the control device or method specified in this rule.

5. Once approved, repairs and maintenance of such devices will not require notification to the Department.

### E. Monitoring

1. To ensure that the minimum required removal efficiency is maintained, the owner or operator shall establish, based on manufacturers recommendations or industry standards, an inspection and maintenance schedule for the control devices, other emission processing equipment, and monitoring devices that are used pursuant to this rule. The inspection and maintenance schedule shall be followed throughout the ginning season. The results of the inspections and any maintenance performed on the control equipment, emission processing equipment, or monitoring devices shall be documented in an on-site log book and made available to the Department upon request. The owner or operator should keep a copy of the manufacturer's specifications for each type of control device installed.

2. On a weekly basis, the owner or operator shall measure and calculate the pressure drops across all cyclones. Measurements shall be made using a manometer, a Magnahelic® gauge, or other device that the Department has approved as being equivalent to a manometer. These measurements should be recorded in the log book referred to in (E)(1). If the owner or operator measures a static pressure out of the range indicated in (C)(2) of this regulation, the owner or operator shall initiate corrective action. Corrective action shall be recorded in the logbook. If corrective action will take more than 48 hours to complete, the owner or operator shall notify the Department no later than the end of the day such static pressure is measured.

3. During the ginning season, the owner or operator shall weekly inspect for structural integrity of the control devices and other emissions processing systems and shall ensure that the control devices and emission processing systems conform to normal and proper operation of the gin. Fine mesh screens should be inspected daily throughout the ginning season and any clogs should be removed. If a problem is found, corrective action shall be taken and recorded in the logbook required in (E)(1) of this rule.

4. If control devices are repaired or replaced with equivalent control equipment, the facility must maintain on-site documentation showing compliance with the conditions specified in Section V (C) or previously allowed for under Section V (D).

5. The owner or operator shall retain all records required by this rule for three (3) years from the date of recording.

**Regulation 61-62.5 Standard 4, Section XII(B) shall be revised as follows:**

**SECTION XII – PERIODIC TESTING**

**B. Total Reduced Sulfur (TRS)**

An owner or operator of a source which must comply with Section XI must perform scheduled periodic tests for TRS every two years or on a schedule as stipulated by special permit conditions and shall ensure that source tests are conducted in accordance with R.61-62.1, Section IV, Source Tests unless they are subject to TRS continuous monitoring equipment as specified in Section XI(D)(1)(a) of this regulation.

**R. 61-62.5 Standard 6, Alternate Emissions Limitation Options (“Bubble”):**

**Regulation 61-62.5 Standard 6, shall be deleted in its entirety and reserved as follows:**

**SOUTH CAROLINA  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL  
AIR POLLUTION CONTROL REGULATIONS AND STANDARDS**

**REGULATION 61-62.5  
AIR POLLUTION CONTROL STANDARDS**

**STANDARD NO. 6  
Reserved**

**R. 61-62.5 Standard 7, Prevention of Significant Deterioration:**

**Regulation 61-62.5 Standard 7, Section (q)(2) shall be revised as follows:**

(2) In accordance with Regulation 61-30, Environmental Protection Fees, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:

(i) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(ii) Make available in at least one location in each region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

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(iii) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment.

(iv) Send a copy of the notice of public comment to the applicant, the Administrator of EPA, and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification.

(v) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

(vi) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.

(vii) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

(viii) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

(ix) Notify EPA of every action related to the consideration of the permit.

### **Regulation 61-62.5 Standard 7, Section (q)(3) shall be revised as follows:**

(3) The requirements of Section (q), Public Participation, of this standard shall not apply to any major plant or major modification which Section (i), Exemptions, would exempt from the requirements of Sections (k), (m), and (o), but only to the extent that, with respect to each of the criteria for construction approval under the South Carolina State Implementation Plan and for exemption under Section (i), requirements providing the public with at least as much participation in each material determination as those of Section (q) have been met in the granting of such construction approval.

### **Regulation 61-62.5 Standard 7, Section (r)(4) shall be revised as follows:**

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements or paragraphs (j) through (r) shall apply to the source or modification as though construction had not yet commenced on the source or modification.

### **Regulation 61-62.5 Standard 7, Section (w)(1) shall be revised as follows:**

(1) Any permit issued under this section or a prior version of this regulation shall remain in effect, unless and until it expires or is rescinded.

**R. 61-62.5 Standard 7.1, Nonattainment New Source Review (NSR):**

**Regulation 61-62.5 Standard 7.1, Section (c)(7)(A)(i) shall be revised as follows; Section (C)(7)(A)(ii) remains the same:**

(7)(A) “**Major stationary source**” means:

(i) Any stationary source of air pollutants which emits, or has the potential to emit 100 tons per year or more of any regulated NSR pollutant, except that lower emissions thresholds shall apply in areas subject to subpart 2, subpart 3, or subpart 4 of part D, title I of the Act, according to paragraphs (c)(7)(A)(i)(a) through (e) of this section.

(a) 50 tons per year of volatile organic compounds or oxides of nitrogen in any serious ozone nonattainment area.

(b) 50 tons per year of volatile organic compounds or oxides of nitrogen in an area within an ozone transport region, except for any severe or extreme ozone nonattainment area.

(c) 25 tons per year of volatile organic compounds or oxides of nitrogen in any severe ozone nonattainment area.

(d) 10 tons per year of volatile organic compounds or oxides of nitrogen in any extreme ozone nonattainment area. or

**R. 61-86.1, Standards of Performance For Asbestos Projects:**

**Regulation 61-86.1, Section (XX)(A)(4) shall be revised as follows:**

4. Industries that choose not to obtain a facility group license or who hire companies or individuals not covered under the facility group license shall satisfy all applicable requirements described in other sections of this regulation, except for with regard to the frequency with which building inspections are required, as outlined in Section XX, J of this regulation.

**Regulation 61-86.1, Section (XX)(J)(3) shall be added at the end of the Section(XX)(J) as follows:**

3. To be acceptable, a building inspection shall have been performed no earlier than five years prior to the renovation or demolition, or, if more than five years have elapsed since the most recent inspection, the previous inspection shall be confirmed and verified by a person licensed as a building inspector.

**Fiscal Impact Statement:**

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

**Statement of Need and Reasonableness:**

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

**DESCRIPTION OF REGULATION:**

Purpose: The amendments to S.C. Regulation 61-62, Air Pollution Control Regulations and Standards, and the State Implementation Plan (SIP), will support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. These amendments will expand and

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clarify definitions applicable to air pollution control regulations and standards, streamline permitting options, as well as correct problems with the current regulatory strategy applicable to cotton gins.

The amendments to S.C. Regulation 61-86.1, Standards of Performance for Asbestos Projects, will address requests made during the legislative approval of the previous version of this regulation by reducing the frequency of building inspections for industrial manufacturing and electrical generating facilities.

Legal Authority: The legal authority for R. 61-62, Air Pollution Control Regulations and Standards, is S.C. Code of Laws, Sections 48-1-10, et seq., 1976, as amended.

The legal authority for R. 61-86.1, Standards of Performance for Asbestos Projects, is S.C. Code of Laws, Sections 44-1-140, 48-1-30, and 44-87-10 et seq.

Plan for Implementation: These amendments will take effect upon approval by the S.C. General Assembly and publication in the State Register. These amendments will be implemented by providing the regulated community with copies of the regulation.

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

The Department has amended R. 61-62 and the SIP. In particular, the Department has amended 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 the 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 remove the obsolete requirement to conduct stack tests for Total Reduced Sulfur (TRS) for facilities that are already required to have continuous emissions monitoring systems (CEMs) installed; and clarify the definition for major source threshold throughout 61-62. The Department has also deleted 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 has also amended R. 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.

The intent of these amendments is to simplify and correct certain issues in our regulatory guidelines to support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. There would be no detrimental effect on the environment and public health if the amendments to R. 61-62, Air Pollution Control Regulations and Standards, R. 61-86.1, Standards of Performance for Asbestos Projects, and the SIP are adopted, in fact, improvements to the regulatory strategy for cotton gins will enhance air quality in some areas.

### DETERMINATION OF COSTS AND BENEFITS:

There will be no increased cost to the State or its political subdivisions. Some cotton gins may incur added costs due to the addition of required controls, but these costs will be offset by the use of registration permits for cotton gins as indicated in the proposed changes. The amendments to R. 61-62, Air Pollution Control Regulations and Standards, and R. 61-86.1, Standards of Performance for Asbestos Projects, and the SIP will benefit the regulated community and the Department by expanding and clarifying definitions applicable to air pollution control regulations and standards, streamlining permitting options, and reducing unnecessary requirements.

The amendments to R.61-62.5, Standard No. 4, Emissions from Process Industries, may result in increased costs for some cotton ginning facilities associated with installing the necessary control equipment. However, the revised regulatory strategy was developed through an extensive stakeholder process and represents a compromise to include a registration permit option that would at the same time decrease the costs associated with obtaining permits to construct/operate.

**UNCERTAINTIES OF ESTIMATES:**

There are no uncertainties of estimates relative to the costs to the State or its political subdivisions.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The amendments to R. 61-62, Air Pollution Control Regulations and Standards, R.61-86.1, Standards of Performance for Asbestos Projects, and the SIP, will provide continued protection of the environment and public health.

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

There will be no detrimental effect on the environment and/or public health associated with these revisions. Rather, changes to R. 61-62.4, Standard 4, involving the regulatory strategy for cotton gins will be more stringent than the previous process rate based emission limitations as these revisions require the addition of industry standard air pollution control devices, control of emissions from specific point sources in the ginning process, and enforceable monitoring and recordkeeping.

**Statement of Rationale:**

The Department began this process by developing an internal workgroup to evaluate the existing air quality regulations to provide clarification, delete or update obsolete requirements, and correct typographical errors as necessary.

The Department also held several external stakeholder meetings to take recommendations and comments on those regulatory amendments identified by the workgroup. The amendments to R. 61-62, R. 61-86.1, and the SIP were developed by consensus. These regulatory amendments will provide clarity and specificity to the existing regulations, omit obsolete requirements, and provide additional permitting options to the regulated community.

Document No. 4153

**DEPARTMENT OF INSURANCE**

**CHAPTER 69**

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110 and 38-75-485

**69-76. SC Safe Home Program Wind Inspectors and Contractors**

**Synopsis:**

The South Carolina Department of Insurance proposes to promulgate Regulation 69-76, SC Safe Home Program Wind Inspectors and Contractors. The regulation will set forth standards to facilitate the operation of the SC Safe Home program. The regulation will set forth policies and procedures that wind inspectors and contractors participating in the SC Safe Home Program must meet. The procedures and guidelines will allow the program to operate in an effective and equitable manner in implementing the standards and measures set forth in the Omnibus Coastal Property Insurance Reform Act of 2007.

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The Notice of Drafting for the proposed regulation was published in the *South Carolina State Register* on December 25, 2009.

### Instructions:

Add Regulation 69-76 as drafted below to the South Carolina Code of Regulations.

### Text:

#### Section I. Purpose and Scope

The purpose of this regulation is to specify requirements and qualifications for wind inspectors and contractors participating in the SC Safe Home Program.

#### Section II. Wind Inspectors

A. In order to obtain certification from the Department of Insurance as a wind inspector for the SC Safe Home Program, an individual must:

- (1) submit an application on a form approved by the Department;
- (2) take the Federal Alliance for Safe Homes (FLASH) *Blueprint for Safety* Course, or other similar course approved by the Department, and pass the inspector's examination with a grade of 90% or higher; and
- (3) have a demonstrated working knowledge of residential building practices through:
  - (a) being actively licensed by and in good standing with the South Carolina Labor Licensing and Regulation Division as a general contractor or residential builder; or
  - (b) if not required to be licensed, documentation of five years experience working in the residential construction industry.

B. Certified wind inspectors must attend an annual meeting of wind inspectors or other program of continuing education at a date, time and location set by the SC Safe Home Advisory Committee.

#### Section III. Contractors

A. In order to obtain certification from the Department of Insurance as a contractor for the SC Safe Home Program, an individual must:

- (1) submit an application on a form approved by the Department;
- (2) be actively licensed and in good standing through the offices of the South Carolina Labor Licensing and Regulation Division as a general contractor or residential builder; and
- (3) take the Federal Alliance for Safe Homes (FLASH) *Blueprint for Safety* Course, or other similar course approved by the Department, and pass the contractor's examination with a grade of 90% or higher.

B. Certified contractors must attend an annual meeting of contractors or other program of continuing education at a date, time and location set by the SC Safe Home Advisory Committee.

#### Section IV. Citizenship Requirements for Wind Inspectors and Contractors

Only natural persons may be certified as wind inspectors and contractors to work with the SC Safe Home Program. The applicant shall be a citizen of the United States or provide documentation that the applicant is a properly registered alien residing in the United States.

#### Section V. Absence of Criminal Record

In determining whether an individual is eligible to be certified as a wind inspector or contractor to work with the SC Safe Home Program, the director or his designee must, among other things, consider whether the individual has been convicted of, or pleaded guilty or nolo contendere to, a crime involving moral turpitude. To satisfy the director or his designee that an individual is trustworthy and has not been convicted of a crime involving moral turpitude, the individual applicant must, as part of their application, obtain from the South Carolina State Law Enforcement Division (SLED) a copy of the applicant's criminal history record. Such copy of the applicant's criminal history record must be filed with the Department along with the applicant's application for certification.

**Section VI. Requirements Relating to Probation, Withdrawal or Suspension of a Certification, Refusal to Issue a Certification and Reissuance of a Certification**

**A. Recommendations of the SC Safe Home Advisory Committee**

(1) The SC Safe Home Advisory Committee may, upon a majority vote, recommend to the Department probation, withdrawal, or suspension of the certification of any wind inspector or contractor. Such recommendation must be submitted to the director or his designee in writing, specifying the recommended action to be taken and the findings of the Advisory Committee in reaching the recommendation. Recommendations for probation must specify a length of time, not to exceed one year, for which the Advisory Committee recommends the probation. The Advisory Committee may, among other things, consider misconduct or any fraudulent or deceitful action or inaction by the certified wind inspector or certified contractor in the performance of his or her duties as a certified wind inspector or certified contractor.

(2) A person who alleges incompetence, misconduct, fraud, or deceit against a certified wind inspector or certified contractor must submit such allegations in writing to the Department. Upon receipt, the Department may provide a copy of the written allegation to the Advisory Committee and request that the Advisory Committee review the allegation and submit a recommendation pursuant to item (1) of this subsection.

**B. Procedure for probation, withdrawal, or suspension of a certification or refusal to issue a certification**

(1)(a) The director or his designee may place on probation, withdraw, or suspend a wind inspector's or contractor's certification after ten days' notice or refuse to issue a certification when it appears that a wind inspector or contractor or applicant for certification has been convicted of a crime involving moral turpitude, has violated this regulation, or has willfully deceived or dealt unjustly with the citizens of this State.

(b) The words "deceived or dealt unjustly with the citizens of this State" include, but are not limited to, action or inaction by the wind inspector or contractor as follows:

(i) providing incorrect, misleading, incomplete, or materially untrue information in the application for certification;

(ii) obtaining or attempting to obtain a certification through misrepresentation or fraud;

(iii) improperly withholding, misappropriating, or converting any monies or properties received in the course of doing business as a certified wind inspector or certified contractor;

(iv) having been convicted of a felony;

(v) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere;

(vi) forging another's name to an application for a SC Safe Home grant application or to any document related to the SC Safe Home Program; and

(vii) improperly using notes or any other reference material to complete an examination relating to certification as a wind inspector or contractor.

(2) The director or his designee must also consider whether the individual has had a license or its equivalent, to operate as a general contractor or residential builder denied, suspended, or revoked in this state or another state, province, district, or territory.

C.(1) If upon investigation the director or his designee finds that a wind inspector or contractor has obtained a certification by fraud or misrepresentation, he may suspend immediately the certification. The director or his designee, in an order suspending a certification shall specify the period during which the suspension is to be in effect. The period may not exceed one year.

(2) In addition to or in lieu of any applicable denial, probation, suspension, or revocation of a certification a person violating this regulation may, after a hearing, be subject to an administrative penalty according to Section 38-2-10.

**D. Procedures relating to the reissuance of a withdrawn certification or issuance of a certification to an applicant who has been refused a certification.**

(1)(a) A contractor or wind inspector whose certification is withdrawn or an applicant who has been refused a certification by the director or his designee may not reapply for certification until a six-month period of time has lapsed from the effective date of the withdrawal or refusal or, if judicial review before the Administrative Law Court of the withdrawal or refusal is sought, after six months from the date of a final court order or decree affirming the withdrawal or refusal.

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(b) In the case of the director or his designee's refusal to issue a certification on an application submitted pursuant to subitem (a), the applicant may reapply for certification, not to exceed three times, after the exhaustion of a six-month period of time from the effective date of the refusal or, if judicial review before the Administrative Law Court of the refusal is sought, after six months from the date of a final court order or decree affirming the refusal.

(2) An individual submitting an application pursuant to item (1) of this subsection must comply with all certification requirements set forth this regulation

E. Notice of the director or his designee's probation, withdrawal, or suspension of a certification or refusal to issue a certification must be provided in writing and mailed to the last known address of the certified individual or applicant via US Certified Mail/Return Receipt Requested. The written notice must advise the applicant or certified individual of the reason for the probation, withdrawal, or suspension of the certification or the refusal to issue the certification. The applicant or certified individual may make written demand upon the Administrative Law Judge within thirty days of the date of receipt of the notice for a hearing before the Administrative Law Court to determine the reasonableness of the director or his designee's action. The hearing must be held pursuant to the Administrative Procedures Act.

### Section VII. Effective Date

The regulation will become effective upon final publication in the South Carolina *State Register*.

### **Fiscal Impact Statement:**

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

### **Statement of Rationale:**

Regulation 69-76. SC Safe Home Program Wind Inspectors and Contractors is being promulgated to provide guidance to wind inspectors and contractors participating in the SC Safe Home Program of the requirements for participation in the program. The regulation will help safeguard the consumers of South Carolina who are seeking to obtain grants under the program and those who have obtained grants.

Document No. 4141

## **DEPARTMENT OF NATURAL RESOURCES**

### **CHAPTER 123**

Statutory Authority: 1976 Code Sections 50-1-200, 50-1-220, 50-11-10, 50-11-96, 50-11-105, 50-11-310, 50-11-335, 50-11-350, 50-11-390, 50-11-520, 50-11-530, 50-11-854, 50-11-2200 and 50-11-2210

123-40. Wildlife Management Area Regulations

123-51. Turkey Hunting Rules and Seasons

123-53. Bear Hunting Rules and Seasons

### **Synopsis:**

These regulations amend Chapter 123-40 Wildlife Management Area Regulations, Chapter 123-51 Turkey Hunting Rules and Seasons and Chapter 123-53 Bear Hunting Rules and Seasons in order to set seasons, bag limits and methods of hunting and taking of wildlife on existing and additional Wildlife Management Areas and to remove Chapter 123-53 regulations now in statute.

The Notice of Drafting for this regulation was published on July 23, 2010 in the South Carolina State Register Volume 34, Issue No. 7.

**Instructions:**

Amend Regulations 123-40 and 123-51 to establish changes and include additional WMAs. On Regulation 123-51, delete the current Hamilton Ridge WMA text and add it to Webb-Palachucola WMAs. Also, delete the text of Regulation 123-53.

Do not make any changes to the text in the current Code of Regulations if it is not addressed in the text or instructions of this regulation. Any text not discussed remains the same.

**Text:**

HUNTING IN WILDLIFE MANAGEMENT AREAS

123-40. Wildlife Management Area Regulations.

1.1 The following regulations amend South Carolina Department of Natural Resources regulation Numbers 123-40, 123-51 and 123-53.

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

**(A) Game Zone 1**

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

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

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

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

Hogs and Coyotes

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

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### (B) Game Zone 2

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

### Keowee WMA

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

### Fants Grove WMA

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

### (C) Crackerneck WMA and Ecological Reserve

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

### (G) Francis Marion National Forest

During still gun hunts for deer there shall be no hunting or shooting from, on or across any road open to vehicle traffic. No buckshot on still gun hunts. During deer hunts when dogs are used buckshot only is permitted. On either-sex deer hunts with dogs, all deer must be checked in by one hour after legal sunset. On all still gun and muzzleloader either-sex hunts for all units, all does must be tagged with an individual antlerless deer tag except when harvested on county-wide either-sex days. Individual antlerless deer tags are valid on days not designated as either-sex on or after Oct. 1 for still hunting only. Tibwin Special Use Area (in Wambaw) is closed to hunting except for Special hunts. On youth deer hunts, only youths 17 and younger may carry a gun and must be accompanied by an adult 21 years old or older.	Total of 4 deer for all gun and muzzleloader hunts on the Francis Marion.
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**Hellhole WMA**

Deer

Archery	Sept. 1 - 30.	2 deer per day, either-sex. Sept. 15 - 30. Hogs no limit.
Dog Hunts (Shotguns only, no still gun hunting)	1 <sup>st</sup> Sat. in Dec.  1 <sup>st</sup> Sat. in Nov.	2 deer per day, buck only. Hogs no limit. 2 deer per day, either sex. Hogs no limit.

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

**Waterhorn WMA**

Deer

Archery	Sept. 1 - 30.	2 deer per day, either-sex. Sept. 15 - 30. Hogs no limit.
Still Gun Hunts	1 <sup>st</sup> & 2 <sup>nd</sup> Fri. & Sat. in Oct. 2 <sup>nd</sup> and last Fri. & Sat. in Nov.	2 deer per day, buck only. Hogs no limit.
	1 <sup>st</sup> full week in Dec. Dec. 26 - Jan. 1.	2 deer per day, either-sex. Hogs no limit.

**Wambaw WMA**

Deer

Archery	Sept. 1 - 30.	2 deer per day, either-sex. Sept. 15 - 30. Hogs no limit.
Still Gun Hunts	Oct. 1-Jan. 1 except during scheduled dog drive hunts.	2 deer per day. Hogs no limit.
Dog Hunts (Shotguns only)	Fri. in Sept. before the last Sat. Northampton dog hunt & Wed. & Thurs. before the 3 <sup>rd</sup> Sat. in Nov. & 2 <sup>nd</sup> Sat. in Oct. & 2 hunting days after Dec. 25.	2 deer per day, buck only. Hogs no limit.

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2<sup>nd</sup> Sat in Dec.

2 deer per day, either-sex.  
Hogs no limit.

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

### Northampton WMA

Deer

Archery

Sept. 1 - 30.

2 deer per day, either-sex.  
Sept. 15-30. Hogs no limit.

Still Gun Hunts

Oct. 1- Jan. 1  
except during scheduled dog  
drive hunts.

2 deer per day.  
Hogs no limit.

Dog Hunts  
(Shotguns only)

Last Sat. in Sept. &  
Wed. & Thurs. before the 2<sup>nd</sup>  
Sat. in Oct. & Fri. before the  
4<sup>th</sup> Sat. in Nov. & 3<sup>rd</sup> hunting day  
after Dec. 25.

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

2<sup>nd</sup> Sat. in Dec.

2 deer per day, either-sex.  
Hogs no limit.

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

### Santee WMA

Deer

Archery

Sept. 1 - 30.

2 deer per day, either-sex.  
Sept. 15 - 30. Hogs no limit.

Still Gun Hunts

Oct. 1- Jan. 1  
except during scheduled dog  
drive hunts.

2 deer per day.  
Hogs no limit.

Dog Drive Hunts  
(Shotguns only)

2<sup>nd</sup> Fri. & Sat. in Sept.  
Wed. & Thurs. before the 4<sup>th</sup>  
Sat. in Oct. & 1<sup>st</sup> Fri. in Dec.

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

1<sup>st</sup> Sat. in Nov.

2 deer per day, either-sex.  
Hogs no limit.

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

**(I) Santee Cooper WMA**

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

**(Z) Donnelley WMA**

Deer

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

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

Raccoons and Opossum	Jan. 2 – Mar. 1 (Wed. - Fri. only)	Game Zone 6 bag limits.
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**WILDLIFE MANAGEMENT AREA REGULATIONS**

**General**

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

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

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

### 123-51. Turkey Hunting Rules and Seasons

AREA	DATES	LIMIT	Other Restrictions
Webb- Palachucola- Hamilton Ridge WMAs	April 1 - May 1	2	All hunters must pick up and return data cards at kiosk and display hangtags on vehicles.

### **Fiscal Impact Statement:**

This amendment of Regulations 123-40, 123-51 and 123-53 will result in increased public hunting opportunities which should generate additional State revenue through license sales. In addition, the local economy should benefit from sales of hunting supplies, food and overnight accommodations. Sales taxes on these items will also directly benefit government.

### **Statement of Rationale:**

Rationale for the formulation of these regulations is based on over 60 years of experience by SCDNR in establishing public hunting areas. New areas are evaluated on location, size, current wildlife presence, access and recreation use potential. Contractual agreements with the landowners provide guidelines for the use and management of the property. Wildlife Management Area agreements are on file with the Wildlife Management Section of the Department of Natural Resources, Room 267, Dennis Building, 1000 Assembly Street, Columbia.