

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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GENERAL ASSEMBLY

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

SOUTH CAROLINA STATE REGISTER

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

STYLE AND FORMAT

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

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

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

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

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

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

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

Executive Orders are actions issued and taken by the Governor.

2012 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	1/13	2/10	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/27	2/24	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

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

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

SUBSCRIPTIONS

Subscriptions to the *South Carolina State Register* are available electronically through the South Carolina Legislature Online website at www.scstatehouse.gov via an access code, or in a printed format. Subscriptions run concurrent with the State of South Carolina's fiscal year (July through June). The annual subscription fee for **either** format is \$100.00. Payment must be made by check payable to the Legislative Council. To subscribe, complete the form below and mail with payment. Access codes for electronic subscriptions will be e-mailed to the address submitted on this form.

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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.php>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4163	SR36-2		Board of Landscape Architectural Examiners	1/19/12	Board of Landscape Architectural Exam
4161	SR36-2		Water Classifications and Standards	1/24/12	Department of Health and Envir Control
4162	SR36-2		Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	1/26/12	Environmental Certification Board
4139	SR36-2		Environmental Protection Fees (Drinking Water Fees)	1/31/12	Department of Health and Envir Control
4174	SR36-3		Hazardous Waste Management Regulations	2/21/12	Department of Health and Envir Control
4175	SR36-3		Hazardous Waste Management Planning	2/21/12	Department of Health and Envir Control
4176	SR36-3		Capital Expenditure Reviews Under Section 1122, Social Security Act	2/21/12	Department of Health and Envir Control
4180	SR36-3		Minimum Standards for Licensing Chiropractic Facilities	2/21/12	Department of Health and Envir Control
4181			Certification of Need for Health Facilities and Services	5/07/12	Department of Health and Envir Control
4186			Soil Classifiers	5/09/12	LLR - Soil Classifiers Advisory Council
4187			Jurisdiction of the Administrative Law Court to Review Citations (Enforcement of Violations)	5/09/12	LLR - OSHA
4191			Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	5/09/12	Department of Natural Resources
4198			Accreditation Criteria	5/09/12	Board of Education
4199			Adult Education Program	5/09/12	Board of Education
4200			End-of-Course Tests	5/09/12	Board of Education
4201			Gifted and Talented	5/09/12	Board of Education
4188			Maximum Allowable Payments to Medical Practitioners	5/09/12	Workers' Compensation Commission
4189			Financing Applications	5/09/12	Public Service Commission
4206			Credential Classification	5/09/12	Board of Education
4207			Requirements for Additional Areas of Certification	5/09/12	Board of Education
4208			At-Risk Students	5/09/12	Board of Education
4205			Physical Fitness Services Center - Certificate of Authority	5/09/12	Department of Consumer Affairs
4216			Practice Privileges, Continuing Professional Education, Peer Review, and Professional Standards	5/09/12	Board of Accountancy
4217			Mixed Martial Arts	5/09/12	Athletic Commission
4218			Board of Cosmetology	5/09/12	Board of Cosmetology
4197			Access to Restricted Information	5/10/12	Department of Health and Envir Control
4193			Surface Water Withdrawal, Permitting, Use and Reporting; Water Use Reporting and Coordination; and Interbasin Transfer of Water	5/16/12	Department of Health and Envir Control
4256			Offers of Work	5/25/12	Department of Employment and Workforce
4212			Water Classifications and Standards; and Classified Waters	5/29/12	Department of Health and Envir Control
4257			Mortgage Lending	6/01/12	State Board of Financial Institutions - CFD
4223			Reinstatement and Continuing Professional Education	6/05/12	Board of Accountancy
4224			Requirements of Licensure in the Field of Architecture	6/05/12	Board of Architectural Examiners
4262			Fees	6/05/12	Athletic Commission
4263			Reporting of Continuing Education	6/05/12	Auctioneers' Commission
4264			Duplicate Wall or Pocket Card License	6/05/12	Auctioneers' Commission
4225			Requirements of Licensure in the Field of Barbering	6/05/12	Board of Barber Examiners
4265			Fees	6/05/12	Board of Barber Examiners
4226			Duties and Responsibilities of Department; Modular Buildings Construction	6/05/12	Building Codes Council
4228			Organization, Administration and Procedure	6/05/12	Board of Chiropractic Examiners
4267			Emergency Licensure	6/05/12	Contractors' Licensing Board
4229			Requirements of Licensure for Contractors	6/05/12	Contractors' Licensing Board
4230			Requirements of Licensure for Cosmetologists, Estheticians, and Nail Technicians	6/05/12	Board of Cosmetology
4231			Requirements of Licensure for Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists	6/05/12	Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists
4232			Registration of Licenses or Certificates; Annual Election of the Board; and Executive Director	6/05/12	Board of Dentistry
4233			Requirements of Licensure for Engineers and Surveyors	6/05/12	Board of Registration for Professional Engineers and Surveyors
4235			General Licensing Provisions for Embalmers and Funeral Directors; Provisions for Annual Renewal of Licenses and Reactivation of Expired Licenses	6/05/12	Board of Funeral Service

2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4268	Fees	6/05/12	Board of Funeral Service
4269	Requirements of Licensure for Funeral Service Providers	6/05/12	Board of Funeral Service
4236	General Registration Provisions for Geologists-in-Training	6/05/12	Board of Registration for Geologists
4270	Special Inspectors	6/05/12	LLR - Office of Elevators and Amusement Rides
4238	Licensing and Permitting Fees; Licensing Requirements	6/05/12	LLR - Division of Labor
4239	Qualification for Licensure	6/06/12	LLR - Massage/Bodywork Therapy Panel
4240	Requirements of Licensure for Soil Classifiers	6/06/12	LLR - Soil Classifiers Advisory Council
4241	Requirements of Licensure for Landscape Architects	6/06/12	Board of Landscape Architectural Examiners
4242	Requirements of Licensure for Long Term Health Care Admin.	6/06/12	Board of Long Term Health Care Administrators
4243	Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses	6/06/12	Manufactured Housing Board
4244	Requirements of Licensure for Medical Professionals	6/06/12	Board of Medical Examiners
4271	Fees	6/06/12	Board of Medical Examiners
4272	Fees and APRNs	6/06/12	Board of Nursing
4246	Definitions; Licensure by Endorsement; and Fees	6/06/12	Occupational Therapy Board
4247	Requirements of Licensure for Opticians	6/06/12	Board of Examiners in Opticianry
4227	Requirements of Licensure for Perpetual Care Cemeteries	6/06/12	Perpetual Care Cemetery Board
4248	Requirements of Licensure for Physical Therapists	6/06/12	Board of Physical Therapy Examiners
4249	Requirements of Licensure for Pilots	6/06/12	Commissioners of Pilotage
4250	Requirements of Licensure for Podiatrists	6/06/12	Board of Podiatry Examiners
4251	Continuing Education Credits	6/06/12	Board of Examiners in Psychology
4273	Insurance Required for Time Sharing Facilities and Accommodations	6/06/12	Real Estate Commission
4274	Provider, Course, and Instructor Fees; Fees	6/06/12	Real Estate Commission
4252	Residential Specialty Contractors License	6/06/12	Residential Builders Commission
4275	Emergency License and Registration	6/06/12	Residential Builders Commission
4253	Requirements of Licensure for Social Workers	6/06/12	Board of Social Work Examiners
4254	Requirements of Licensure for Speech-Language Pathologists and Audiologists	6/06/12	Board of Examiners in Speech-Language Pathology and Audiology
4255	Requirements of Licensure for Veterinary Medical Professionals	6/06/12	Board of Veterinary Medical Examiners
4276	Fees	6/06/12	Board of Veterinary Medical Examiners
4234	Requirements of Licensure for Foresters	6/07/12	Board of Registration for Foresters
4237	Definitions	1/11/13	LLR - Panel for Dietetics
4261	Graduation Requirements	1/12/13	State Board of Education
4258	Defined Program, Grades 9-12	1/13/13	State Board of Education
4260	Preneed Funeral Contracts	2/02/13	Department of Consumer Affairs
4278	Examinations; Reexaminations	2/06/13	Board of Cosmetology
4279	Administrative Citations and Penalties	2/06/13	Board of Cosmetology
Committee Request Assessment Report			
4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Tolled	Department of Health and Envir Control
Committee Request Withdrawal			
4164	Child Labor	Tolled	Division of Labor
4183	International Residential Code	Tolled	LLR-Building Codes Council
4184	Update of International and National Codes	Tolled	LLR-Building Codes Council
4168	Perpetual Care Cemetery Board	Tolled	SC Perpetual Care Cemetery Board
Agency Request Withdrawal			
4182	Licensure for the Savannah River	Tolled	Commissioners of Pilotage
4222	Communications Services	Tolled	Department of Revenue
Resolution Introduced to Disapprove			
4126	South Carolina Pesticide Control (R.27-1079 only)	Tolled	Clemson University-State Crop Pest Comm.
Permanently Withdrawn			
4179	Electronic Equipment Collection and Recovery		Department of Health and Envir Control
4245	Procedure for Disciplinary Hearings; Fees		Board of Nursing

COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

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.php>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4163	Board of Landscape Architectural Examiners	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
4139	Environmental Protection Fees (Drinking Water Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
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
4181	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs
4186	Soil Classifiers	Agriculture and Natural Resources	Labor, Commerce and Industry
4187	Jurisdiction of the Administrative Law Court to Review Citations (Enforcement of Violations)	Judiciary	Labor, Commerce and Industry
4191	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4198	Accreditation Criteria	Education and Public Works	Education
4199	Adult Education Program	Education and Public Works	Education
4200	End-of-Course Tests	Education and Public Works	Education
4201	Gifted and Talented	Education and Public Works	Education
4188	Maximum Allowable Payments to Medical Practitioners	Labor, Commerce and Industry	Judiciary
4189	Financing Applications	Labor, Commerce and Industry	Judiciary
4206	Credential Classification	Education and Public Works	Education
4207	Requirements for Additional Areas of Certification	Education and Public Works	Education
4208	At-Risk Students	Education and Public Works	Education
4205	Physical Fitness Services Center - Certificate of Authority	Medical, Military, Pub & Mun Affairs	Medical Affairs
4216	Practice Privileges, Continuing Professional Education, Peer Review, and Professional Standards	Labor, Commerce and Industry	Labor, Commerce and Industry
4217	Mixed Martial Arts	Labor, Commerce and Industry	Labor, Commerce and Industry
4218	Board of Cosmetology	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4197	Access to Restricted Information	Judiciary	Judiciary
4193	Surface Water Withdrawal, Permitting, Use and Reporting; Water Use Reporting and Coordination; and Interbasin Transfer of Water	Agriculture and Natural Resources	Agriculture and Natural Resources
4256	Offers of Work	Labor, Commerce and Industry	Labor, Commerce and Industry
4212	Water Classifications and Standards; and Classified Waters	Agriculture and Natural Resources	Agriculture and Natural Resources
4257	Mortgage Lending	Labor, Commerce and Industry	Banking and Insurance
4223	Reinstatement and Continuing Professional Education	Labor, Commerce and Industry	Labor, Commerce and Industry
4224	Requirements of Licensure in the Field of Architecture	Labor, Commerce and Industry	Labor, Commerce and Industry
4262	Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4263	Reporting of Continuing Education	Labor, Commerce and Industry	Labor, Commerce and Industry
4264	Duplicate Wall or Pocket Card License; Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4225	Requirements of Licensure in the Field of Barbering	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4265	Fees	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4226	Duties and Responsibilities of Department; Modular Buildings Construction	Labor, Commerce and Industry	Labor, Commerce and Industry
4228	Organization, Administration and Procedure	Medical, Military, Pub & Mun Affairs	Medical Affairs
4267	Emergency Licensure	Labor, Commerce and Industry	Labor, Commerce and Industry
4229	Requirements of Licensure for Contractors	Labor, Commerce and Industry	Labor, Commerce and Industry
4230	Requirements of Licensure for Cosmetologists, Estheticians, and Nail Technicians	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4231	Requirements of Licensure for Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists	Medical, Military, Pub & Mun Affairs	Medical Affairs
4232	Registration of Licenses or Certificates; Annual Election of the Board; and Executive Director	Medical, Military, Pub & Mun Affairs	Medical Affairs
4233	Requirements of Licensure for Engineers and Surveyors	Labor, Commerce and Industry	Labor, Commerce and Industry
4235	General Licensing Provisions for Embalmers and Funeral Directors; Provisions for Annual Renewal of Licenses and Reactivation of Expired Licenses	Labor, Commerce and Industry	Labor, Commerce and Industry
4268	Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4269	Requirements of Licensure for Funeral Service Providers	Labor, Commerce and Industry	Labor, Commerce and Industry
4236	General Registration Provisions for Geologists-in-Training	Agriculture and Natural Resources	Labor, Commerce and Industry
4270	Special Inspectors	Labor, Commerce and Industry	Labor, Commerce and Industry
4238	Licensing and Permitting Fees; Licensing Requirements	Labor, Commerce and Industry	Labor, Commerce and Industry
4239	Qualification for Licensure	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4240	Requirements of Licensure for Soil Classifiers	Agriculture and Natural Resources	Labor, Commerce and Industry

4 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4241	Requirements of Licensure for Landscape Architects	Labor, Commerce and Industry	Labor, Commerce and Industry
4242	Requirements of Licensure for Long Term Health Care Admin.	Medical, Military, Pub & Mun Affairs	Medical Affairs
4243	Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses		
4244	Requirements of Licensure for Medical Professionals	Labor, Commerce and Industry	Labor, Commerce and Industry
4271	Fees	Medical, Military, Pub & Mun Affairs	Medical Affairs
4272	Fees and APRNs	Medical, Military, Pub & Mun Affairs	Medical Affairs
4246	Definitions; Licensure by Endorsement; and Fees	Labor, Commerce and Industry	Medical Affairs
4247	Requirements of Licensure for Opticians	Medical, Military, Pub & Mun Affairs	Medical Affairs
4227	Requirements of Licensure for Perpetual Care Cemeteries	Labor, Commerce and Industry	Labor, Commerce and Industry
4248	Requirements of Licensure for Physical Therapists	Medical, Military, Pub & Mun Affairs	Medical Affairs
4249	Requirements of Licensure for Pilots	Labor, Commerce and Industry	Transportation
4250	Requirements of Licensure for Podiatrists	Medical, Military, Pub & Mun Affairs	Medical Affairs
4251	Continuing Education Credits	Medical, Military, Pub & Mun Affairs	Medical Affairs
4273	Insurance Required for Time Sharing Facilities and Accommodations	Labor, Commerce and Industry	Labor, Commerce and Industry
4274	Provider, Course, and Instructor Fees; Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4252	Residential Specialty Contractors License	Labor, Commerce and Industry	Labor, Commerce and Industry
4275	Emergency License and Registration	Labor, Commerce and Industry	Labor, Commerce and Industry
4253	Requirements of Licensure for Social Workers	Medical, Military, Pub & Mun Affairs	General
4254	Requirements of Licensure for Speech-Language Pathologists and Audiologists		Medical Affairs
4255	Requirements of Licensure for Veterinary Medical Professionals	Medical, Military, Pub & Mun Affairs	Agriculture and Natural Resources
4276	Fees	Agriculture and Natural Resources	Agriculture and Natural Resources
4234	Requirements of Licensure for Foresters	Agriculture and Natural Resources	Fish, Game and Forestry
4237	Definitions	Medical, Military, Pub & Mun Affairs	Medical Affairs
4261	Graduation Requirements	Education and Public Works	Education
4258	Defined Program, Grades 9-12	Education and Public Works	Education
4260	Preneed Funeral Contracts	Labor, Commerce and Industry	Judiciary
4278	Examinations; Reexaminations		
4279	Administrative Citations and Penalties		
Committee Request Assessment Report			
4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
Committee Request Withdrawal			
4164	Child Labor	Labor, Commerce and Industry	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
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
Agency Request Withdrawal			
4182	Licensure for the Savannah River	Agriculture and Natural Resources	Labor, Commerce and Industry
4222	Communications Services	Ways and Means	Finance
Resolution Introduced to Disapprove			
4126	South Carolina Pesticide Control (R.27-1079 only)	Agriculture and Natural Resources	Agriculture and Natural Resources
Permanently Withdrawn			
4179	Electronic Equipment Collection and Recovery	Agriculture and Natural Resources	Medical Affairs
4245	Procedure for Disciplinary Hearings; Fees	Medical, Military, Pub & Mun Affairs	Medical Affairs

DEPARTMENT OF CONSUMER AFFAIRS
NOTICE OF GENERAL PUBLIC INTEREST

CHANGES IN DOLLAR AMOUNTS

The Administrator of the Department of Consumer Affairs announces changes in Dollar Amounts in Regulation 28-62, pursuant to Sections 37-1-109 and 37-6-104(1)(e). The changes will adjust certain dollar amounts in the Consumer Protection Code which are subject to change on July 1 of every even numbered year based on the changes in the Consumer Price Index for December of the prior year. The dollar amounts will increase 10% from the original amount, with the exception of Sections 37-2-203(2) and 37-3-203(2) which have a self-executing formula of 40% of the amount in Sections 37-2-203(1) and 37-3-203(1). The designated dollar amount figures are Sections 37-2-104(1)(e), 37-2-106(1)(b), 37-2-203(1), 37-2-407(1), 37-2-705(1)(a), 37-2-705(1)(b), 37-3-(104(1)(d), 37-3-203(1), 37-3-510, 37-3-511, 37-3-514, 37-5-102(2), (3) and (4), 37-10-103, and 37-23-80. Pursuant to Section 1 of Act No. 82 of 2001, the Department is required to announce these changes by publication in the State Register by April 30 of each even numbered year. Section 1 of Act No. 42 of 2003, added Sections 37-10-103 and 37-23-80 to the amounts subject to change.

		Change Dollar Amount	
		From	To
		7/1/2010 to 6/30/2012	7/1/2012 to 6/30/2014
Section			
2.104(1)(e)	Consumer Credit Sale	85,000.00	87,500.00
2.106(1)(b)	Consumer Lease	85,000.00	87,500.00
2.203(1)	Delinquency Charge – Sales	17.00	17.50
2.203(2)	Minimum Delinquency Charge	6.80	7.00
2.407(1)	Security Interest – Sales	1,020.00 3,400.00	1,050.00 3,500.00
2.705(1)(a)	Delinquency Charge – Rental Purchase	9.60	10.00
2.705(1)(b)	Delinquency Charge – Rental Purchase	5.20	5.40
3.104(1)(d)	Consumer Loans	85,000.00	87,500.00
3.203(1)	Delinquency Charge – Loans	17.00	17.50
3.203(2)	Minimum Delinquency	6.80	7.00
3.510	Land as Security – Supervised Loans	3,400.00	3,500.00
3.511	Maximum Loan Term	1,020.00 3,400.00	1,050.00 3,500.00
3.514	Attorney's Fees – Supervised Loans	3,400.00	3,500.00
5.103(2), (3) & (4)	Deficiency Judgment	5,150.00	5,300.00
10.103	Prepayment Penalty	225,000.00	240,000.00
23.80	Prepayment Penalty	225,000.00	240,000.00

6 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

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 March 23, 2012, 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. Paula J. Bracey, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Bamberg and Barnwell Counties

Construction of a new 25-bed acute care hospital to consolidate and replace Bamberg County Memorial Hospital (currently licensed for 59 acute care beds) and Barnwell County Hospital (currently licensed for 53 acute care beds), both operating under bankruptcy protection, by transferring beds from both hospitals through the acquisition of the assets of the two hospitals. During the transition period, the hospitals will operate from the existing Barnwell location until the replacement hospital is built. Both hospitals will close upon completion of the replacement facility

South Carolina Regional Hospital

Denmark, South Carolina

Project Cost: \$32,326,872

Affecting Dorchester County

Purchase and installation of a da Vinci Si Surgical System to be located in the surgical services department

Trident Medical Center, LLC d/b/a Summerville Medical Center

Summerville, South Carolina

Project Cost: \$2,188,150

Affecting Lancaster County

Addition of twelve (12) acute psychiatric beds for a total of one hundred ninety-nine (199) general acute beds, eighteen (18) rehabilitation beds, and twelve (12) psychiatric beds. The project also involves relocation of the fourteen (14) bed Transitional Care Unit

Springs Memorial Hospital

Lancaster, South Carolina

Project Cost: \$688,544

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 March 23, 2012. "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 Allendale County

Establishment of a home health agency restricted to serve Allendale County
 Community Health Inc.
 Allendale, South Carolina
 Project Cost: \$85,688

Establishment of a home health agency restricted to serve Allendale County
 United Home Care, Inc. d/b/a UniHealth Home Health
 Fairfax, South Carolina
 Project Cost: \$53,185

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

ERRATA

March 23, 2012

The Department of Health and Environmental Control has conducted an audit of Regulation 61-62, Air Pollution Control Regulations and Standards, and is publishing these errata to correct errors in the regulations pertaining to 61-62.70 and 61-62.72. These corrections do not create new regulatory requirements, the corrections are nonsubstantive, do not change the legal meaning, and are made pursuant to regulation drafting guidelines to improve the overall quality of the Department's regulations.

R.61-62.70. Title V Operating Permit Program

State Register Doc. 3224, October 24, 2008

At R.61-62.70.1(c), correct the paragraph to make the word "Federal" lowercase for consistency to read:

(c) Nothing in this part shall prevent the Department from establishing additional or more stringent requirements not inconsistent with this Act. The U.S. Environmental Protection Agency will approve South Carolina's program submittal to the extent that it is not inconsistent with the Act and the federal Part 70 regulations. No permit, however, can be less stringent than necessary to meet all applicable requirements. In the case of federal intervention in the permit process, the Administrator reserves the right to implement the State operating permit program, in whole or in part, or the federal program contained in regulations promulgated under Title V of the Act.

At R.61-62.70.1(e), correct the paragraph to makes the words "State" and "Federal" lowercase for consistency to read:

(e) Issuance of state permits under this part may be coordinated with issuance of permits under other applicable laws, whether issued by state or federal agencies.

At R.61-62.70.2(a), strike the period after "a" and add parentheses around "a" to correct outline codification and for consistency to read:

(a) "Act" means the Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

At R.61-62.70.2(b), strike the period after "b" and add parentheses around "b" to correct outline codification and for consistency to read:

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(b) “Administrator” means the Administrator of the United States Environmental Protection Agency (EPA) or his designee.

At R.61-62.70.2(c), strike the period after “c” and add parentheses around “c” to correct outline codification and for consistency to read:

(c) “Affected source” means a source that includes one or more affected units that are subject to the acid rain provisions under Title IV of the Act.

At R.61-62.70.2(d), Introductory paragraph, strike the period after “d” and add parentheses around “d” to correct outline codification and for consistency to read:

(d) “Affected States” are:

At R.61-62.70.2(e), strike the period after “e” and add parentheses around “e” to correct outline codification and for consistency to read:

(e) “Affected unit” means a unit that is subject to the acid rain emission reduction requirements or limitations and regulations promulgated under Title IV of the Act.

At R.61-62.70.2(f), strike the period after “f” and add parentheses around “f” to correct outline codification and for consistency to read:

(f) “Applicable requirement” means all of the following as they apply to emissions units in a Part 70 source subject to these regulations (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future-effective compliance dates):

At R.61-62.70.2(g), strike the period after “g” and add parentheses around “g” to correct outline codification and for consistency to read:

(g) “Area source” means any stationary source of hazardous air pollutants that is not a major source.

At R.61-62.70.2(h), strike the period after “h” and add parentheses around “h” to correct outline codification and for consistency to read:

(h) “Department” means the Department of Health and Environmental Control.

At R.61-62.70.2(i), strike the period after “i” and add parentheses around “i” to correct outline codification and for consistency to read:

(i) “Designated representative” means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit under acid rain requirements of Title IV of the Act and regulations promulgated thereunder.

At R.61-62.70.2(j), strike the period after “j” and add parentheses around “j” to correct outline codification and for consistency. Replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(j) “Draft permit” means the version of a permit for which the Department offers public participation under Section 70.7(h) or affected State review under Section 70.8.

At R.61-62.70.2(k), strike the period after “k” and add parentheses around “k” to correct outline codification and for consistency. Reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

(k) “Effective date” of this Part 70 regulation, including any partial or interim program approved under this Part, shall be the effective date of approval by the Administrator as published in the Federal Register.

At R.61-62.70.2(l), strike the period after “l” and add parentheses around “l” to correct outline codification and for consistency to read:

(l) “Emissions allowable under the permit” means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

At R.61-62.70.2(m), strike the period after “m” and add parentheses around “m” to correct outline codification and for consistency to read:

(m) “Emissions unit” means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Act. This term is not meant to alter or affect the definition of the term “unit” for purposes of the Title IV acid rain requirements of the Act.

At R.61-62.70.2(n), strike the period after “n” and add parentheses around “n” to correct outline codification and for consistency to read:

(n) The “EPA” means the Administrator of the U.S. Environmental Protection Agency or his designee.

At R.61-62.70.2(o), strike the period after “o” and add parentheses around “o” to correct outline codification and for consistency and replace the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software errors to read:

(o) “Final permit” means the version of a Part 70 permit issued by the Department that has completed all review procedures required by Sections 70.7 and 70.8.

At R.61-62.70.2(p), strike the period after “p” and add parentheses around “p” to correct outline codification and for consistency to read:

(p) “Fugitive emissions” are those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

At R.61-62.70.2(q), strike the period after “q” and add parentheses around “q” to correct outline codification and for consistency. Replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(q) “General permit” means a Part 70 permit that meets the requirements of Section 70.6(d).

At R.61-62.70.2(r), strike the period after “r” and add parentheses around “r” to correct outline codification and for consistency. Replace the abbreviation “i.e.” which stands for the phrase “that is” with the words “that is” in order to avoid confusion and provide clarity to read:

(r) “Major source” means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in paragraphs (1), (2),

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or (3) of this definition. For the purposes of defining “major source,” a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (that is, all have the same two-digit code) as described in the Standard Industrial Classification Manual, latest revision.

At R.61-62.70.2(r)(1), capitalize the word “section” for consistency to read:

(1) A major source under Section 112 of the Act, which is defined as:

At R.61-62.70.2(r)(2)(xx), strike the ellipses (...) that are not part of the regulation and are a formatting error to read:

(xx) Chemical process plants - The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140;

At R.61-62.70.2(r)(2)(xxvii), capitalize the word “section” for consistency to read:

(xxvii) Any other stationary source category, which as of August 7, 1980, is being regulated under Section 111 or 112 of the Act;

At R.61-62.70.2(r)(3)(iv), correct the subscript typographical error by striking the term “(PM-10)” throughout and replacing it with the term “(PM₁₀)” to read:

(iv) For particulate matter (PM₁₀) nonattainment areas classified as “serious,” sources with the potential to emit 70 tpy or more of (PM₁₀).

At R.61-62.70.2(s), strike the period after “s” and add parentheses around “s” to correct outline codification and for consistency to read:

(s) “Non-major source” means a source that is not major under this Part.

At R.61-62.70.2(t), strike the period after “t” and add parentheses around “t” to correct outline codification and for consistency to read:

(t) “Part 70 permit” or “permit” (unless the context suggests otherwise) means any permit or group of permits covering a Part 70 source that is issued, renewed, amended, or revised pursuant to this Part.

At R.61-62.70.2(u), strike the period after “u” and add parentheses around “u” to correct outline codification and for consistency to read:

(u) “Part 70 program” or “State program” means a program approved by the Administrator under this Part.

At R.61-62.70.2(v), strike the period after “v” and add parentheses around “v” to correct outline codification and for consistency. Replace the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(v) “Part 70 source” means any source subject to the permitting requirements of this Part, as provided in Sections 70.3(a) and 70.3(b).

At R.61-62.70.2(w), strike the period after “w” and add parentheses around “w” to correct outline codification and for consistency. Replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(w) “Permit modification” means a revision to a Part 70 permit that meets the requirements of Section 70.7(e).

At R.61-62.70.2(x), strike the period after “x” and add parentheses around “x” to correct outline codification and for consistency to read:

(x) “Permit revision” means any permit modification or administrative permit amendment.

At R.61-62.70.2(y), strike the period after “y” and add parentheses around “y” to correct outline codification and for consistency. Correct the paragraph to make the word “Federally” lowercase for consistency to read:

(y) “Potential to emit” means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 if the limitation is federally enforceable by the Administrator. This term does not alter or affect the use of this term for any other purposes under the Act, or the term “capacity factor” as used in the Title IV acid rain requirements of the Act or the regulations promulgated thereunder.

At R.61-62.70.2(z), strike the period after “z” and add parentheses around “z” to correct outline codification and for consistency. Replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(z) “Proposed permit” means the version of a permit that the Department proposes to issue and forwards to the Administrator for review in compliance with Section 70.8.

At R.61-62.70.2(aa), strike the period after “aa” and add parentheses around “aa” to correct outline codification and for consistency to read:

(aa) “Regulated air pollutant” means the following:

At R.61-62.70.2(bb), strike the period after “bb” and add parentheses around “bb” for consistency to read:

(bb) “Renewal” means the process by which a permit is reissued at the end of its term.

At R.61-62.70.2(cc), Introductory Paragraph, strike the period after “cc” and add parentheses around “cc” to correct outline codification and for consistency to read:

(cc) “Responsible official” means one of the following:

At R. 61-70.2(cc)(1)(i), capitalize the word “the” before the word “facilities” for consistency:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

At R. 61-70.2(cc)(1)(ii), capitalize the word “the” before the word “delegation” for consistency:

(ii) The delegation of authority to such representative is approved in advance by the Department;

At R.61-62.70.2(cc)(3), correct the paragraph to make the words “State” and “Federal” lowercase for consistency. Replace the abbreviation “e.g.” which stands for the phrase “for example” with the words “for example,” in order to avoid confusion and provide clarity to read:

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(3) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this Part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (for example, a Regional Administrator of EPA); or

At R.61-62.70.2(dd), strike the period after “dd” and add parentheses around “dd” to correct outline codification and for consistency. Strike the word “Federal” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(dd) “Section 111” means that portion of the Clean Air Act that addresses New Source Performance Standards (NSPS).

At R.61-62.70.2(ee), strike the period after “ee” and add parentheses around “ee” to correct outline codification and for consistency. Strike the word “Federal” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(ee) “Section 112” means that portion of the Clean Air Act that addresses standards for hazardous air pollutants.

At R.61-62.70.2(ff), strike the period after “ff” and add parentheses around “ff” to correct outline codification and for consistency to read:

(ff) “Section 502(b)(10) changes” are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

At R.61-62.70.2(gg), strike the period after “gg” and add parentheses around “gg” to correct outline codification and for consistency to read:

(gg) “Stationary source” means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Act.

At R.61-62.70.2(hh), strike the period after “hh” and add parentheses around “hh” to correct outline codification and for consistency. Replace the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(hh) “Title I modification or modification under any provision of Title I of the Act” means any modification under Sections 111 or 112 of the Act and any physical change or change in method of operations that is subject to the preconstruction regulations promulgated under Part C and D of the Act.

At R.61-62.70.2(ii), strike the period after “ii” and add parentheses around “ii” to correct outline codification and for consistency. Strike the word “Federal” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(ii) “Title III” means that portion of the Clean Air Act that addresses requirements for the administration and control of emissions of toxic air pollutants.

At R.61-62.70.2(jj), strike the period after “jj” and add parentheses around “jj” to correct outline codification and for consistency. Strike the word “Federal” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(jj) “Title IV” means that portion of the Clean Air Act that addresses requirements for the administration and control of air emissions contributing to acid deposition (acid rain).

At R.61-62.70.2(kk), strike the period after “kk” and add parentheses around “kk” to correct outline codification and for consistency. Strike the word “Federal” with the definition of “Act” at R. 61-62.70.2(a) for consistency to read:

(kk) “Title V” means that portion of the Clean Air Act that established the requirements for federal operating permits, permit fees, and approval of comparable State programs.

At R.61-62.70.2(ll), strike the period after “ll” and add parentheses around “ll” to correct outline codification and for consistency. Strike the word “Federal” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(ll) “Title VI” means that portion of the Clean Air Act that provides for Stratospheric Ozone and Global Climate Protection, primarily through the control and reduction of emissions of chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs).

At R.61-62.70.2(mm), strike the period after “mm” and add parentheses around “mm” to correct outline codification and for consistency. Strike the word “Federal” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(mm) “Title VII” means that portion of the Clean Air Act that addresses enforcement of the Act, including the provisions for civil, administrative, and criminal penalties (as codified in Section 113 of the Act).

At R.61-62.70.3(a)(6), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(6) Any source listed in Section 70.3(a) that is exempt from the requirement to obtain a permit under Section 70.3(b) may opt to apply for a permit under this Part 70 program.

At R.61-62.70.3(b)(1), replace the section symbol (§) with the word “Section” to provide clarity to read:

(1) All sources listed in Section 70.3(a) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Act, shall be exempted by the State from the obligation to obtain a Part 70 permit for 4 years after the effective date of the program or until such time as the Administrator completes a rulemaking to determine how the program should be structured for non-major sources and the appropriateness of any permanent exemptions in addition to those provided for in Section 70.3(b)(4).

At R.61-62.70.3(b)(2), add a comma after “1992” for punctuational correctness and consistency to read:

(2) In the case of non-major sources subject to a standard or other requirement under either Section 111 or Section 112 of the Act after July 21, 1992, publication, the Administrator will determine whether to exempt any or all such applicable sources from the requirement to obtain a Part 70 permit at the time that the new standard is promulgated.

At R.61-62.70.3(c)(2), replace the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(2) For any non-major source subject to the Part 70 program under Sections 70.3(a) or (b), the Department shall include in the permit all applicable requirements that apply to emissions units that cause the source to be subject to the Part 70 program.

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At R.61-62.70.5(a)(1)(iv), add a comma after “1996” and “1998” for punctuational correctness and consistency to read:

(iv) Applications for initial phase II acid rain permits shall be submitted to the Department by January 1, 1996, for sulfur dioxide, and by January 1, 1998, for nitrogen oxides.

At R.61-62.70.5(a)(2), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(2) Complete application. To be deemed complete, an application must provide all information required pursuant to Section 70.5(c), except that applications for permit revision need supply such information only if it is related to the proposed change. Information required under Section 70.5(c) must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify that the submitted information is consistent with Section 70.5(d).

At R.61-62.70.5(a)(2)(i), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(i) Unless the Department determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in Section 70.7(a)(4).

At R.61-62.70.5(a)(2)(iii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software errors to read:

(iii) The source’s ability to operate without a permit, as set forth in Section 70.7(b), shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Department.

At R.61-62.70.5(a)(2)(iv)(A), capitalize the word “information” before “specified” for consistency. Replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors. Add a colon following “that” to provide clarity to read:

(A) Information specified in Section 70.5(c) for those products, processes, operations, and emissions that:

At R.61-62.70.5(a)(2)(iv)(A)(1), capitalize the word “are” before “not” for consistency to read:

(1) Are not addressed in the existing permit;

At R.61-62.70.5(a)(2)(iv)(A)(2), capitalize the word “are” before “subject” for consistency to read:

(2) Are subject to applicable requirements that are not addressed in the existing permit; or

At R.61-62.70.5(a)(2)(iv)(A)(3), capitalize the word “as” before “to” for consistency to read:

(3) As to which the source seeks permit terms and conditions that differ from those in the existing permit; and

At R.61-62.70.5(a)(2)(iv)(B), capitalize the word “a” before “compliance” for consistency. Replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(B) A compliance plan and certification as required in Section 70.5(c)(8).

At R.61-62.70.5(c), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors. Add parentheses around “f” in “70.2 f.” for consistency to read:

(c) Standard application form and required information. Information as described below for each emissions unit at a Part 70 source shall be included in a Department approved application. Air emissions or air emission units that are insignificant are exempted. However, for these emission units which are exempted, a list of the emission units must be included in the application. “Insignificant Activity” generally means any air emissions or air emissions unit at a plant that has the potential to emit less than 5 tons per year of any criteria pollutant or less than 1000 pounds per year of any compound listed in Regulation 61-62.5, Standard No. 8 - Toxic Air Pollutants. The Department may determine that certain types or classes of units may be considered insignificant at higher emission levels, or that, due to the nature of the pollutant(s) emitted, a unit may be considered significant at a lower emission rate. The Department shall maintain a list subject to EPA approval of air emissions or air emission units which are considered to be insignificant. No emission or activity can be excluded from a Title V operating permit to the extent it is needed to determine compliance with an applicable requirement, as defined under Section 70.2(f). An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the schedule approved pursuant to Section 70.9. The Department approved forms and attachments shall include the elements specified below:

At R.61-62.70.5(c)(3)(i), replace the section symbol (§) throughout with the word “Section” to provide clarity to avoid future software conversion errors to read:

(i) A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under Section 70.5(c). The Department shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule approved pursuant to Section 70.9(b).

At R.61-62.70.5(c)(3)(ii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(ii) Identification and description of all points of emissions described in Section 70.5(c)(3)(i) in sufficient detail to establish the basis for fees and applicability of requirements of the Act.

At R.61-62.70.5(c)(7), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(7) Additional information as determined to be necessary by the Department to define alternative operating scenarios identified by the source pursuant to Section 70.6(a)(9) or to define permit terms and conditions implementing Section 70.7(e)(5) or Section 70.6(a)(10).

At R.61-62.70.5(c)(9)(i), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(i) A certification of compliance with all applicable requirements by a responsible official consistent with Section 70.5(d) and Section 114(a)(3) of the Act;

At R.61-62.70.6(a)(3)(i)(A), make the word “section” uppercase for consistency to read:

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(A) All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including 40 CFR Part 64, Compliance Assurance Monitoring (October 22, 1997, [64 FR 54900]), and any other procedures and methods that may be promulgated pursuant to Sections 114(a)(3) or 504(b) of the Clean Air Act Amendments of 1990. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions provided the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements that are not included in the permit as a result of such streamlining;

At R.61-62.70.6(a)(3)(i)(B), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors. Add the word “below” after “iii” for consistency to read:

(B) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit, as reported pursuant to Section 70.6(a)(3)(iii) below. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of Section 70.6(a)(3)(i)(B); and

At R.61-62.70.6(a)(3)(iii)(A), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(A) Submittal of reports of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Section 70.5(d).

At R.61-62.70.6(a)(6)(i), strike the word “Federal” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(i) The permittee must comply with all conditions of the Part 70 permit. Any permit noncompliance constitutes a violation of the South Carolina Pollution Control Act and/or the Clean Air Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

At R.61-62.70.6(a)(7), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(7) A provision to ensure that a Part 70 source pays fees to the Department consistent with the fee schedule approved pursuant to Section 70.9. Failure to pay applicable fee can be considered grounds for permit revocation.

At R.61-62.70.6(a)(9)(ii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software errors to read:

(ii) May extend the permit shield described in Section 70.6(f) to all terms and conditions under each such operating scenario; and

At R.61-62.70.6(a)(10)(i), replace the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(i) Shall include all terms required under Sections 70.6(a) and (c) to determine compliance;

At R.61-62.70.6(a)(10)(ii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(ii) May extend the permit shield described in Section 70.6(f) to all terms and conditions that allow such increases and decreases in emissions; and

At R.61-62.70.6(b)(2), replace the section symbol (§) throughout with the word “Section” and the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(2) Notwithstanding Section 70.6(b)(1), the Department shall specifically designate as not being federally enforceable under the Act any terms and conditions included in the permit that are not required under the Act or under any of its applicable requirements. Terms and conditions so designated are not subject to the requirements of Sections 70.7, 70.8, or of this Section, other than those contained in Section 70.6(b).

At R.61-62.70.6(c)(1), replace the section symbol (§) throughout with the word “Section” to provide clarity to read:

(1) Consistent with Section 70.6(a)(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a Part 70 permit shall contain a certification by a responsible official that meets the requirements of Section 70.5(d).

At R.61-62.70.6(c)(2)(iv), strike the word “Federal” for consistency to with the definition of “Act” at R. 61-62.70.2(a) to read:

(iv) As authorized by the Clean Air Act and/or the South Carolina Pollution Control Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

At R.61-62.70.6(c)(3), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software errors to read:

(3) A schedule of compliance consistent with Section 70.5(c)(8).

At R.61-62.70.6(c)(4), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(4) Progress reports consistent with an applicable schedule of compliance and Section 70.5(c)(8) to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Department. Such progress reports shall contain the following:

At R.61-62.70.6(c)(5)(ii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(ii) In accordance with Section 70.6(a)(3), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

At R.61-62.70.6(d)(1), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

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(1) The Department may, after notice and opportunity for public participation provided under Section 70.7(h), issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other Part 70 permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the Department shall grant the conditions and terms of the general permit. Notwithstanding the shield provisions of Section 70.6(f), the source shall be subject to enforcement action for operation without a Part 70 permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under Title IV of the Act.

At R.61-62.70.6(d)(2), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(2) Part 70 sources that would qualify for a general permit must apply to the Department for coverage under the terms of the general permit or must apply for a Part 70 permit consistent with Section 70.5. The Department may, in the general permit, provide for applications which deviate from the requirements of Section 70.5, provided that such applications meet the requirements of Title V of the Act, and include all information necessary to determine qualification for, and to assure compliance with, the general permit. Without repeating the public participation procedures required under Section 70.7(h), the Department may grant a source’s request for authorization to operate under a general permit, but such a grant shall not be a final permit action for purposes of judicial review.

At R.61-62.70.6(e), strike the word “Federal” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(e) Temporary sources. The Department may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No sources subject to Title IV of the Clean Air Act shall be permitted as a temporary source. Permits for temporary sources shall include the following:

At R.61-62.70.6(f)(3), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(3) Nothing in Section 70.6(f) or in any Part 70 permit shall alter or affect the following:

At R.61-62.70.6(f)(4), replace the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(4) The permit shield shall not apply to sources subject to Sections 70.7(e)(5) and 70.7(e)(2) and (3).

At R.61-62.70.6(g)(2), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(2) Effect of an emergency. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of Section 70.6(g)(3) are met.

At R.61-62.70.6(g)(3)(iv), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(iv) The permittee shall submit verbal notification of the emergency to the Department within 24 hours of the time when emission limitations were exceeded, followed by written notification within 30 days. This notice fulfills the requirement of Section 70.6(a)(3)(iii)(B). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

At R.61-62.70.7(a)(1)(i), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(i) The Department has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under Section 70.6(d);

At R.61-62.70.7(a)(1)(ii), replace the section symbol (§) with the word “Section” and the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(ii) Except for modifications qualifying for minor permit modification procedures under Sections 70.7(e)(2) and (3), the Department has complied with the requirements for public participation under Section 70.7(h);

At R.61-62.70.7(a)(1)(iii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(iii) The Department has complied with the requirements for notifying and responding to affected States under Section 70.8(b);

At R.61-62.70.7(a)(1)(v), replace the section symbols (§§) with the word “Sections” and the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(v) The Administrator has received a copy of the proposed permit and any notices required under Sections 70.8(a) and 70.8(b), and has not objected to issuance of the permit under Sections 70.8(c) within the time period specified therein.

At R.61-62.70.7(a)(2), strike the word “Federal” before “Clean Air Act” for consistency with the definition of “Act” at R. 61-62.70.2(a) to read:

(2) The Department shall take final action on each permit application (including a request for permit modification or renewal) within 18 months, after receiving a complete application. Exceptions to this schedule are provided in the initial transition plan required under the 40 Code of Federal Regulations Part 70.4(b)(11) or under regulations promulgated under Title IV or Title V of the Clean Air Act for the permitting of affected sources under the acid rain program.

At R.61-62.70.7(a)(4), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(4) The Department shall promptly provide notice to the applicant of whether the application is complete. Unless the Department requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. For modifications processed through minor permit modification procedures, such as those in Section 70.7(e)(2) and (3), the Department will not require a completeness determination.

At R.61-62.70.7(b), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

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(b) Requirement for a permit. No Part 70 source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued under a Part 70 program. If a Part 70 source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a Part 70 permit is not a violation of this Part until the Department takes final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to paragraph Section 70.7(a)(4), and as required by Section 70.5(a)(2), the applicant fails to submit by the deadline specified in writing by the Department any additional information identified as being needed to process the application. Exceptions to this section are provided in Section 70.7(e)(5)(i) and Section 70.7(e)(2)(v) and (3)(v).

At R.61-62.70.7(c)(1)(ii), replace the section symbol (§) with the word "Section" to provide clarity and to avoid future software conversion errors to read:

(ii) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with Section 70.5(a)(1)(iii), Section 70.5(a)(2)(iv), and Section 70.7(b). In this case, the permit shall not expire until the renewal permit has been issued or denied. All the terms and conditions of the permit including any permit shield that may be granted pursuant to Section 70.6(f) shall remain in effect until the renewal permit has been issued or denied.

At R.61-62.70.7(d)(1)(v), replace the section symbol (§) with the word "Section" and the section symbols (§§) with the word "Sections" to provide clarity and to avoid future software conversion errors to read:

(v) Incorporates into the Part 70 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of Sections 70.7 and 70.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in Section 70.6; or

At R.61-62.70.7(d)(1)(vi), replace the section symbol (§) with the word "Section" to provide clarity and to avoid future software conversion errors to read:

(vi) Incorporates any other type of change which the Administrator has determined as part of the approved Part 70 program to be similar to those in Section 70.7(d)(1)(i) through (iv).

At R.61-62.70.7(d)(3)(iii), remove the space between "II" and "M" to correct a typographical error to read:

(iii) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request, except transfer/ownership which must comply with South Carolina Code of Laws Regulation 61-62.1 Section II.M.

At R.61-62.70.7(d)(4), replace the section symbol (§) throughout with the word "Section" and the section symbols (§§) with the word "Sections" to provide clarity and to avoid future software conversion errors to read:

(4) The Department may, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in Section 70.6(f) for administrative permit amendments made pursuant to Section 70.7(d)(1)(v) which meet the relevant requirements of Sections 70.6, 70.7, and 70.8 for significant permit modifications.

At R.61-62.70.7(e), replace the section symbol (§) with the word "Section" to provide clarity and to avoid future software conversion errors to read:

(e) Permit modification. A permit modification is any revision to a Part 70 permit that cannot be accomplished under the program's provisions for administrative permit amendments under Section 70.7(d). A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the Act.

At R.61-62.70.7(e)(2)(i)(B), replace the section symbols (§§) with the word "Sections" to provide clarity to read:

(B) Notwithstanding Sections 70.7(e)(2)(i)(A) and (e)(3)(i), minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the South Carolina Implementation Plan or in applicable requirements promulgated by EPA.

At R.61-62.70.7(e)(2)(ii), replace the section symbol (§) with the word "Section" to provide clarity and to avoid future software conversion errors to read:

(ii) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of Section 70.5(c) and shall include the following:

At R.61-62.70.7(e)(2)(ii)(D), replace the section symbol (§) with the word "Section" to provide clarity and to avoid future software conversion errors to read:

(D) Completed forms for the Department to use to notify the Administrator and affected States as required under Section 70.8.

At R.61-62.70.7(e)(2)(iii), replace the numeral "5" with the word "five" for consistency. Replace the section symbols (§§) with the word "Sections," and replace the section symbol (§) with the word "Section" and to provide clarity and to avoid future software conversion errors to read:

(iii) Within five working days of receipt of a complete permit modification application, the Department shall meet its obligation under Sections 70.8(a)(1) and (b)(1) to notify the Administrator and affected States of the requested permit modification. The Department promptly shall send any notice required under Section 70.8(b)(2) to the Administrator.

At R.61-62.70.7(e)(2)(iv), replace the section symbol (§) with the word "Section" to provide clarity and to avoid future software conversion errors to read:

(iv) Within 90 days of the Department's receipt of an application under minor permit modification procedures or 15 days after the end of the Administrator's 45-day review period under Section 70.8(c), whichever is later, the Department shall:

At R.61-62.70.7(e)(2)(iv)(D), replace the section symbol (§) with the word "Section" to provide clarity and to avoid future software conversion errors to read:

(D) Revise the draft permit modification and transmit to the Administrator the new proposed permit modification as required by Section 70.8(a).

At R.61-62.70.7(e)(2)(v), replace the section symbol (§) with the word "Section" to provide clarity and to avoid future software conversion errors. Add the word "above" after "(C)" for clarity to read:

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(v) The Department may allow the source to make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the Department takes any of the actions specified in Section 70.7(e)(2)(iv) (A) through (C) above, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

At R.61-62.70.7(e)(2)(vi), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(vi) The permit shield under Section 70.6(f) may not extend to minor permit modifications.

At R.61-62.70.7(e)(3), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(3) Group processing of minor permit modifications. Consistent with this paragraph, the Department may modify the procedure outlined in Section 70.7(e)(2) to process groups of a source’s applications for certain modifications eligible for minor permit modification processing.

At R.61-62.70.7(e)(3)(i)(A), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(A) That meet the criteria for minor permit modification procedures under Section 70.7(e)(2)(i)(A); and

At R.61-62.70.7(e)(3)(i)(B), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(B) That collectively are below the threshold level approved by the Administrator as part of the Department’s approved program. This threshold shall be 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in Section 70.2, or 5 tons per year, whichever is least.

At R.61-62.70.7(e)(3)(ii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(ii) Application. An application requesting the use of group processing procedures shall meet the requirements of Section 70.5(c) and shall include the following:

At R.61-62.70.7(e)(3)(ii)(C), replace the section symbol (§) with the word “Section” to provide clarity to read:

(C) Certification by a responsible official, consistent with Section 70.5(d), that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

At R.61-62.70.7(e)(3)(ii)(D), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(D) A list of the source’s other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under Section 70.7(e)(3)(i)(B).

At R.61-62.70.7(e)(3)(ii)(E), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(E) Certification, consistent with Section 70.5(d), that the source has notified EPA of the proposed modification. Such notification need only contain a brief description of the requested modification.

At R.61-62.70.7(e)(3)(ii)(F), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(F) Completed forms for the Department to use to notify the Administrator and affected States as required under Section 70.8.

At R.61-62.70.7(e)(3)(iii), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(iii) On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source’s pending applications equals or exceeds the threshold level set under Section 70.7(e)(3)(i)(B) of this Section, whichever is earlier, the Department promptly shall meet its obligation under paragraphs (a)(1) and (b)(1) of Section 70.8 to notify the Administrator and affected States of the requested permit modifications. The Department shall send any notice required under Section 70.8(b)(2) to the Administrator.

At R.61-62.70.7(e)(3)(iv), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(iv) The provisions of Section 70.7(e)(2)(iv) shall apply to modifications eligible for group processing, except that the Department shall take one of the actions specified in Section 70.7(e)(2)(iv)(A) through (D) within 180 days of receipt of the application or 15 days after the end of the Administrator’s 45-day review period under Section 70.8(c), whichever is later.

At R.61-62.70.7(e)(3)(v), replace the section symbol (§) with the word “Section” to provide clarity to read:

(v) The Department may allow the source to make the changes proposed for group processing in its minor permit modification application immediately after it files such application. After the source makes the changes allowed by the preceding sentence, and until the Department takes any of the actions specified in Section 70.7(e)(2)(iv)(A) through (C), the source must comply with both the applicable requirements governing the changes and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

At R.61-62.70.7(e)(3)(vi), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(vi) The permit shield under Section 70.6(f) may not extend to minor permit modifications eligible for group processing.

At R.61-62.70.7(e)(4)(i)(D), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(D) Are modifications under any provision of Title I of the Act, except those that qualify for processing as administrative permit amendments under Section 70.7(d).

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At R.61-62.70.7(e)(5)(i)(B), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(B) The permit shield described in Section 70.6(f) of this part shall not apply to any change made pursuant to Section 70.7(e)(5)(i).

At R.61-62.70.7(e)(5)(ii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(ii) The Department may provide for permitted sources to trade increases and decreases in emissions in the permitted facility, where the South Carolina Implementation Plan provides for such emissions trades without requiring a permit revision and based on the 7-day notice prescribed in Section 70.7(e)(5). This provision is available in those cases where the permit does not already provide for such emissions trading.

At R.61-62.70.7(e)(5)(ii)(A), replace the section symbol (§) with the word “Section” to provide clarity to read:

(A) Under Section 70.7(e)(5)(ii), the written notification required above shall include such information as may be required by the provision in the South Carolina Implementation Plan authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the South Carolina Implementation Plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the South Carolina Implementation Plan and that provide for the emissions trade.

At R.61-62.70.7(e)(5)(ii)(B), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(B) The permit shield described in Section 70.6(f) of this part shall not extend to any change made under Section 70.7(e)(5)(ii). Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the South Carolina Implementation Plan authorizing the emissions trade.

At R.61-62.70.7(e)(5)(iii), replace the section symbols (§§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(iii) The Department shall, if a permit applicant requests it, issue permits that contain terms and conditions, including all terms required under Sections 70.6(a) and (c) to determine compliance, allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Department shall not be required to include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements.

At R.61-62.70.7(e)(5)(iii)(A), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(A) Under Section 70.7(e)(5)(iii), the written notification required above shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

At R.61-62.70.7(e)(5)(iii)(B), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(B) The permit shield described in Section 70.6(f) of this part may extend to terms and conditions that allow such increases and decreases in emissions.

At R.61-62.70.7(e)(6), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(6) Off-Permit Changes. Except as provided in Section 70.7(e)(6)(v) below, a facility is allowed to make changes that are not addressed or prohibited by the permit without a permit revision. The provisions under this Section do not excuse any facility from the preconstruction permitting requirements under South Carolina Regulation No. 61-62.1. Any such change shall be subject to the following requirements and restrictions:

At R.61-62.70.7(e)(6)(ii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(ii) Sources must provide contemporaneous written notice to the Department and EPA of each such change, except for changes that qualify as insignificant under Section 70.5(c). Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change.

At R.61-62.70.7(e)(6)(iii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(iii) The change shall not qualify for the shield under Section 70.6(f).

At R.61-62.70.7(f)(1)(i), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(i) Additional applicable requirements under the Act become applicable to a major Part 70 source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to Section 70.7(c)(1)(ii).

At R.61-62.70.7(f)(3), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(3) Reopenings under Section 70.7(f)(1) shall not be initiated before a notice of such intent is provided to the Part 70 source by the Department at least 30 days in advance of the date that the permit is to be reopened, except that the Department may provide a shorter time period in the case of an emergency.

At R.61-62.70.7(g)(1), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(1) If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit pursuant to Section 70.7(f), the Administrator will notify the Department and the permittee of such finding in writing.

At R.61-62.70.7(g)(5), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

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(5) If the Department fails to submit a proposed determination pursuant to Section 70.7(g)(2) or fails to resolve any objection pursuant to Section 70.7(g)(4), the Administrator will terminate, modify, or revoke and reissue the permit after taking the following actions:

At R.61-62.70.7(g)(5)(i), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(i) Providing at least 30 days’ notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in Section 70.7(g)(1) through (4).

At R.61-62.70.7(h)(3), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors. Add “and” after “70.8;” for clarity and grammatical correctness to read:

(3) The Department shall provide such notice and opportunity for participation by affected States as is provided for by Section 70.8; and

At R.61-62.70.8(b)(1), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(1) Unless otherwise agreed to between the Department and the Administrator, the Department shall give notice of each draft permit to any affected State on or before the time that the Department provides this notice to the public under Section 70.7(h), except to the extent Section 70.7(e)(2) or (3) requires the timing of the notice to be different.

At R.61-62.70.8(b)(2), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(2) The Department, as part of the submittal of the proposed permit to the Administrator (or as soon as possible after the submittal for minor permit modification procedures allowed under Section 70.7(e)(2) or (3)), shall notify the Administrator and any affected State in writing of any refusal by the Department to accept all recommendations for the proposed permit that any affected State submitted during the public or affected State review period. The notice shall include the Department’s reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements or the requirements of this Part.

At R.61-62.70.8(c)(1), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(1) No permit for which an application must be transmitted to the Administrator under Section 70.8(a) shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information.

At R.61-62.70.8(c)(3)(i), replace the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(i) Failure to comply with Sections 70.8(a) or (b);

At R.61-62.70.8(c)(3)(iii), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(iii) Failure to process any permit under the procedures approved to meet Section 70.7(h) except for minor permit modifications; or

At R.61-62.70.8(c)(4), replace the section symbol (§) with the word “Section” and to avoid future software conversion errors. Correct the paragraph to make the word “Federal” lowercase for consistency to read:

(4) If the Department fails, within 90 days after the date of an EPA objection under Section 70.8(c)(1), to revise and submit a proposed permit in response to the objection, the Administrator will issue or deny the permit in accordance with the requirements of the federal program promulgated under Title V of this Act.

At R.61-62.70.8(d), replace the section symbol (§) throughout with the word “Section” and replace the section symbols (§§) with the word “Sections” to provide clarity and to avoid future software conversion errors to read:

(d) If the Administrator does not object in writing under Section 70.8(c), any person may petition the Administrator within 60 days after the expiration of the Administrator’s 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in Section 70.7(h), unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. If the Administrator objects to the permit as a result of a petition filed under this paragraph, the Department shall not issue the permit until EPA’s objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection. If the Department has issued a permit prior to receipt of an EPA objection under this paragraph, the Administrator will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in Sections 70.7(g)(4) or (5)(i) and (ii) except in unusual circumstances, and the Department may thereafter issue only a revised permit that satisfies EPA’s objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

At R.61-62.70.9(a), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(a) The Department shall require that the owners or operators of Part 70 sources pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs and shall ensure that any fee required by this Section will be used solely for permit program costs. “Permit program costs” means all reasonable (direct and indirect) costs required to develop and administer a permit program, as set forth in Section 70.9(b).

At R.61-62.70.9(b)(2)(ii)(D), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(D) The insignificant quantities of actual emissions not required in a permit application pursuant to Section 70.5(c).

At R.61-62.70.9(b)(2)(v), replace the section symbol (§) with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(v) “Regulated pollutant,” which is used only for purposes of Section 70.9(b)(2), means any “regulated air pollutant” except the following:

At R.61-62.70.9(b)(2)(v)(C), capitalize the word “section” for consistency to read:

(C) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act.

28 NOTICES

At R.61-62.70.9(b)(3), replace the section symbol (§) throughout with the word “Section” to provide clarity and to avoid future software conversion errors to read:

(3) The Department’s fee schedule may include emissions fees, application fees, service-based fees or other types of fees, or any combination thereof, to meet the requirements of Section 70.9(b)(1) or (b)(2). Nothing in the provisions of this section shall require a Department to calculate fees on any particular basis or in the same manner for all Part 70 sources, all classes or categories of Part 70 sources, or all regulated air pollutants, provided that the Department collects a total amount of fees sufficient to meet the program support requirements of Section 70.9(b)(1).

R.61-62.72. Acid Rain.

State Register Doc. 4070, May 28, 2010

At R.61-62.72, Subpart B, Introductory Paragraph, reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

The provisions of Title 40 CFR Part 72, subpart B, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

At R.61-62.72, Subpart C, Introductory Paragraph, reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

The provisions of Title 40 CFR Part 72, subpart C, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

At R.61-62.72, Subpart D, Introductory Paragraph, reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

The provisions of Title 40 CFR Part 72, subpart D, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

At R.61-62.72, Subpart E, Introductory Paragraph, reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

The provisions of Title 40 CFR Part 72, subpart E, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

At R.61-62.72, Subpart F, Introductory Paragraph, reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

The provisions of Title 40 CFR Part 72, subpart F, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

At R.61-62.72, Subpart G, Introductory Paragraph, reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

The provisions of Title 40 CFR Part 72, subpart G, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

At R.61-62.72, Subpart H, Introductory Paragraph, reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

The provisions of Title 40 CFR Part 72, subpart H, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

At R.61-62.72, Subpart I, Introductory Paragraph, reformat the phrase “Federal Register” to remove italics per regulation drafting guidelines to read:

The provisions of Title 40 CFR Part 72, subpart I, as originally published in the Federal Register and as subsequently amended upon publication in the Federal Register as listed below, are incorporated by reference as if fully repeated herein.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH**

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

The South Carolina Department of Labor, Licensing, and Regulation (LLR) does hereby give notice under Section 41-15-220, S.C. Code of Laws, 1976, as amended, that a public hearing will be held on April 25, 2012 at 10:00 a.m. at the S.C. Department of LLR, 1st floor, room 105, 110 Centerview Drive, Columbia, S.C., at which time interested persons will be given the opportunity to appear and present views on the occupational safety and health standards being considered for adoption.

This hearing is to determine if the Director of the South Carolina Department of Labor, Licensing and Regulation will promulgate, revoke or modify Rules and Regulations pursuant to Section 41-15-210, South Carolina Code of Laws, 1976. The parts of the Occupational Safety and Health Rules and Regulations to be considered at the hearing are as follows:

In Subarticle 6 (General Industry and Public Sector Marine Terminals):

Revisions to Sections: 1910.6, 1910.102, 1910.119, 1910.120, 1910.146, 1910.151, 1910.177, 1910.217, 1910.261, 1910.265, 1910.272, 1910.440, 1910.1003, 1910.1025, 1910.1030.

In Subarticle 7 (Construction)

Revisions to Sections: 1926.50, 1926.62.

Any omissions or corrections to the occupational safety and health standards being considered for adoption published in the FEDERAL REGISTER prior to this hearing may be presented at this hearing. These revisions are necessary to comply with federal law and copies of them can be obtained or reviewed at the S.C. Department of LLR during normal business hours by contacting the Occupational Safety and Health Administration office at (803) 896-5811.

30 NOTICES

Persons desiring to speak at the hearing shall file with the Director of LLR a notice of intention to appear and the approximate amount of time required for her/his presentation on the particular matter no later than April 7, 2012. Any person who wishes to express her/his views, but is unable or does not desire to appear and testify at the hearing, should submit those views to the undersigned in writing on or before April 7, 2012.

Catherine B. Templeton
Director
SC Department of LLR
Post Office Box 11329
Columbia, SC 29211-1329

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 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: Leslie M. Jones, Deputy Director & Chief Actuary, South Carolina Department of Insurance, 145 King Street, Suite 228, Charleston, South Carolina 29401. To be considered, comments must be received no later than 5:00 p.m. on April 23, 2012, the close of the drafting comment period.

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-22, Health Maintenance Organizations. Proposed amendments to Regulation 69-22, Health Maintenance Organizations, will make changes necessary to conform the regulation to current statutory requirements.

The proposed regulation will require legislative review.

32 PROPOSED REGULATIONS

Document No. 4284

CLEMSON UNIVERSITY

STATE CROP PEST COMMISSION

CHAPTER 27

Statutory Authority: 1976 Code Section 46-9-40

27-1078. Certifications and Licensing of Commercial Applicators

27-1085. Standards for Prevention or Control of Wood-destroying Organisms

Preamble:

The State Crop Pest Commission proposes to amend certain sections of Article 17, specifically Regulation 27-1078 and Regulation 27-1085, to include a Limited Herbicide Applicators license. This will apply to landscapers using herbicide containing glyphosate as the sole active ingredient and with "Caution" as the signal word, working with terrestrial landscape weed control. This Limited Herbicide Applicators license would relieve the burden on commercial applicators using a less toxic herbicide than those commercial applicators using more environmentally severe herbicides. Notice of Drafting was published in the *State Register* on January 27, 2012. No comments were received. The proposed amendments create a limited herbicide applicators license.

Section-by-Section Discussion

27-1078. Adds Section H(12)(e) which creates a Limited Herbicide Application category for commercial herbicide applicators. Adds Section P which outlines the commercial activity that qualifies for the Limited Herbicide Application category.

27-1085. Adds Section L(5) which describes those persons who fall under the scope of the Limited Herbicide category.

Notice of Public Hearing and Opportunity for Public Comment:

Interested parties are invited to submit written comments by writing to Joseph Krausz, Ph. D. at the Department of Pesticide Regulation, 511 Westinghouse Road, Pendleton, SC 29670. Comments must be received by the close of the business day on April 23, 2012. Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be held at 511 Westinghouse Road, Pendleton, SC 29670, at 10:00 a.m., on April 23, 2012.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Regulations 27-1078 and 27-1085 are part of Article 17, which deals with the comprehensive regulation of pesticides.

Purpose: The proposed amendments to Article 17 are designed to provide incentives for commercial applicators of pesticides to use less toxic applications. Regulations 27-1078H(12)(e), 27-1078P, and 27-1085L(5) are being added to provide a limited herbicide applicators license.

Legal Authority: The legal authority for the Amendments to Article 17 is S.C. Code Section 46-9-40.

Plan for Implementation: The proposed sections will be added upon approval by the General Assembly and Publication in the State Register. The Director of Regulatory Services will notify the regulated community and the general public.

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

This proposed regulation is designed to improve the environment by reducing the use of more toxic herbicides, and to reduce the burden on commercial landscapers who use less toxic herbicides by providing an option for a limited herbicide license.

DETERMINATION OF COSTS AND BENEFITS:

At no detrimental cost to the state, this regulation will allow small businesses to bear a less burdensome cost for a commercial applicator's license. This regulation will encourage the use of less toxic herbicides, which will have environmental benefits for the state. The addition of a limited herbicide license will be cost efficient for the state as well as commercial applicators.

UNCERTAIN ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Adopting this limited herbicide applicators license will reduce the use of more highly toxic herbicides used in commercial application, with environmental and public health benefits.

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

Failure to add this limited applicator's license places an unreasonable burden on landscapers and provides no incentive to avoid using more toxic herbicides.

Statement of Rationale:

The rationale for this regulation is to encourage the use of less toxic herbicides in commercial applications.

Text:

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

34 PROPOSED REGULATIONS

Document No. 4283

WORKERS' COMPENSATION COMMISSION

CHAPTER 67

Statutory Authority: 1976 Code Sections 42-3-30 and 42-17-50

67-706. Oral Argument.

Preamble:

The South Carolina Workers' Compensation Commission proposes to amend Regulation 67-706, Oral Argument. The Notice of Drafting regarding this regulation was published on December 23, 2011 in the *State Register*.

Section by Section Discussion

The Commission is proposing to amend regulation 67-706 to include the addition of a subsection "D" which would require parties to be present in the designated waiting area of the Commission no later than 30 minutes prior to the time for which their cases are scheduled to be argued. Any party who fails to comply with this regulation is subject to a \$100 fine, except for good cause shown. The requirements of this regulation must be set forth in bold type on the hearing notice. The proposed amendment will assist the Commission in maintaining an efficient schedule for its docket of appellate hearings.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the South Carolina Workers' Compensation Commission, attention Gary M. Cannon, Executive Director, Post Office Box 1715, Columbia, South Carolina 29202-1715. To be considered, comments must be received no later than 5:00 p.m. on Monday, April 23, 2012.

The South Carolina Workers' Compensation Commission has scheduled a public hearing for May 21, 2012 at 10:30 a.m. in Hearing Room A at the SC Workers' Compensation Commission, 1333 Main Street, Columbia, SC 29202.

Preliminary Fiscal Impact Statement:

The fiscal impact of the proposed changes to this regulation is \$0.

Statement of Need and Reasonableness:

The Workers' Compensation Commission is the regulatory agency of the State of South Carolina responsible for overseeing and administering the South Carolina Workers' Compensation Act. SC Code Ann. § 42-1-10 et seq. (1976). The Commission shall promulgate all regulations relating to the administration of the workers' compensation laws, and may conduct review and rehearing. § 42-3-30; § 42-17-50; R.67-706.

DESCRIPTION OF REGULATION: R.67-706, Oral Argument.

Purpose: Assists the Commission in maintaining an efficient schedule for its docket of appellate hearings.

Legal Authority: Section 42-3-30, Promulgation of rules and regulations by Commission and Section 42-17-50, Review and rehearing by Commission.

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

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

The Commission determined a need for considering the amendment to the regulation April 2009.

DETERMINATION OF COSTS AND BENEFITS:

There are no additional costs to the agency related to the proposed change to the regulation. The benefit of the proposed change is that it will assist the Commission in maintaining an efficient schedule for its docket of appellate hearings.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

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

None.

Statement of Rationale:

The Commission is proposing to include the addition of a subsection "D" which would require parties to be present in the designated waiting area of the Commission no later than 30 minutes prior to the time for which their cases are scheduled to be argued. The amendment of this regulation will assist the Commission in maintaining an efficient schedule for its docket of appellate hearings.

Text:

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

36 FINAL REGULATIONS

Document No. 4176

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61

Statutory Authority: 1976 Code Sections 44-5-10 et seq.

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

Synopsis:

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

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

Instructions: Repeal R.61-6, Capital Expenditure Reviews Under Section 1122, Social Security Act. Strike the text of R.61-6 and add the word Repealed in brackets to read:

Text:

61-6. [Repealed]

Fiscal Impact Statement:

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

Statement of Need and Reasonableness

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

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

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

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

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

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

Regulation 61-6 has been subsumed by the State Certification of Need and Health Facility Licensure Act, Section 44-7-110 et seq.; S.C. Code of Laws, 1976, as amended; Regulation 61-6, Certification of Need for Health Facilities and Services, and the South Carolina Health Plan. The federal government no longer

reimburses the Department for its review of health facility applications. Regulation 61-6 is obsolete, no longer serves its initial purpose and should be repealed. In the interest of effective government, the Department has repealed Regulation 61-6.

DETERMINATION OF COSTS AND BENEFITS:

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

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

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

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

Statement of Rationale:

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

Document No. 4175
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-99. Hazardous Waste Management Planning

Synopsis:

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

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

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A Notice of Drafting for repeal of R.61-99 was published in the *State Register* on June 25, 2010.

Instructions: Repeal R.61-99, Hazardous Waste Management Planning.

Text:

61-99. [Repealed]

Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

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

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

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

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

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

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

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

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

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

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no environmental or public health effect.

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

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

Statement of Rationale:

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

Document No. 4174

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

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

61-79. Hazardous Waste Management Regulations**Synopsis:**

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

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

A Notice of Drafting to amend R.61-79 was published in the *State Register* on September 24, 2010. See Statement of Need and Reasonableness herein.

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Section-by-Section Discussion of Revisions

1. Academic Lab Rule

261.5(c)(6)

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

261.5(c)(7)

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

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

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

262.10(l)

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

262.10(l)(1)

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

262.10(l)(2)

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

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

262 Subpart K

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

262.200

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

“Central accumulation area”

“College/University”

“Eligible academic entity”

“Formal written affiliation agreement”

“Laboratory”

“Laboratory clean-out”

“Laboratory worker”

“Non-profit research institute”

“Reactive acutely hazardous unwanted material”

“Teaching hospital”

“Trained professional”

“Unwanted material”

“Working container”

262.201

Add new heading on applicability of this subpart.

262.201(a)

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

262.201(b)

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

262.202

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

262.202(a)

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

262.202(b)

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

262.203 heading

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

262.203(a)

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

262.203(b)

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

262.203(b)(1) - (11)

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

262.203(c)

Add section for records retention requirements

262.203(d)

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

262.203(e)

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

262.204 heading

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

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262.204(a)

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

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

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

262.204(c)

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

262.205

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

262.206

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

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

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

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

Add to provide instructions for management of containers in the laboratory

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

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

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

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

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

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

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

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

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

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

262.209(b)

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

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

Add heading: “262.210. Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory.” Provide the instructions for making a waste determination by a trained professional before the unwanted material is removed from the lab, the labeling of hazardous waste on the container label as well as the waste codes associated with the container and dates, account for the number of hazardous waste containers for determination of the eligible academic entity’s generator status.

262.210(c)

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

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

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

262.210(e)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Add heading: “262.214. Laboratory management plan.” Explains requirements for a written Laboratory Management Plan consisting of two parts and nine elements to meet requirements for best management practices including labeling procedures, consistent defining of “unwanted material” or similar term, which set of rules the lab will meet for managing and removing hazardous waste or unwanted material, training and all necessary details for meeting requirements of either subpart K or the standard lab requirements under RCRA, record keeping and labeling.

262.215 heading and (a)-(b)

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

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

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

2. Performance Track

This section removes all references to the federal Environmental Performance Track program and the South Carolina Environmental Excellence Program because the EPA discontinued the federal program in a Federal Register Notice on May 14, 2009 at 74 FR 22741. The South Carolina Environmental Excellence Program references must also be removed because the State cannot provide regulatory incentives because it would make South Carolina regulation less stringent than federal regulation.

260.10 Definitions

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

262.34(j)

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

262.34(k)&(l)

Remove all of both sections and mark [Reserved].

264.15(b)(4)

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

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

Remove all of the listed sections.

264.174

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

264.195(e)

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

264.1101(c)(4)

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

265.15(b)(4)

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

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

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

265.174

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

265.195(d)

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

265.201(e)

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

265.1101(c)(4)

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

270.42(l)(1)&(2)

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

Appendix I to 270.42 Part O.

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

Instructions:

The following sections have been added, deleted, or revised. All other sections of R.61-79 will remain.

Text:

1. ACADEMIC LABS:

261.5(c)(6) remove period at the end of paragraph and add a semicolon followed by the word “or” to read:

261.5(c)(6) Is universal waste managed under R.61-79.261.9 and R. 61-79.273; or

Add 261.5(c)(7) to read:

261.5(c)(7) Is a hazardous waste that is an unused commercial chemical product (listed in part 261, subpart D or exhibiting one or more characteristics in part 261, subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to 262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in 262.200 of Part 262.

Add 262.10(j) and reserve to read:

262.10(j) [Reserved]

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Add 262.10(k) and reserve to read:

262.10(k) [Reserved]

Add 262.10(l) to include subitems 262.10(l)(1) and 262.10(l)(2) to read:

262.10(l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of Subpart K of this part are not subject to (for purposes of this paragraph, the terms “laboratory” and “eligible academic entity” shall have the meaning as defined in 262.200 of Subpart K of this part.):

262.10(l)(1) add paragraph to list the parts (262.11 and 262.34(c)) exemptions under Subpart K for large and small quantity generators.

262.10(l)(1) the requirements of 262.11 or 262.34(c), for large quantity generators and small quantity generators, except as provided in Subpart K, and

262.10(l)(2) is added to establish that conditionally exempt small quantity generators are not subject to 261.5(b).

262.10(l)(2) the conditions of 261.5(b), for conditionally exempt small quantity generators, except as provided in Subpart K.

Add 262 Subpart J and reserve after Subpart I at 262.90 to read:

SUBPART J [Reserved]

Add new Subpart K to Part 262 to read:

SUBPART K - Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities

262.200. Definitions.

“Central accumulation area” means an on-site hazardous waste accumulation area subject to either 262.34(a) of this part (large quantity generators); or 262.34(d)-(f) of this part (small quantity generators). A central accumulation area at an eligible academic entity that chooses to be subject to this subpart must also comply with 262.211 when accumulating unwanted material and/or hazardous waste.

“College/University” means a private or public, post-secondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education

“Eligible academic entity” means a college or university, or a non-profit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

“Formal written affiliation agreement” for a non-profit research institute means a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives, as defined by 260.10, from each institution. A relationship on a project-by-project or grant-by-grant basis is not considered a formal written affiliation agreement. A formal written affiliation agreement for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

“Laboratory” means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a non-production basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photo laboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

“Laboratory clean-out” means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by 262.208 does not qualify as a laboratory clean-out.

“Laboratory worker” means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, post-doctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for his/her work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

“Non-profit research institute” means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

“Reactive acutely hazardous unwanted material” means an unwanted material that is one of the acutely hazardous commercial chemical products listed in 261.33(e) for reactivity.

“Teaching hospital” means a hospital that trains students to become physicians, nurses or other health or laboratory personnel.

“Trained professional” means a person who has completed the applicable RCRA training requirements of 265.16 for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with 262.34(d)(5)(iii) for small quantity generators and conditionally exempt small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

“Unwanted material” means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for hazardous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to 261.2, or a hazardous waste pursuant to 261.3. If an eligible academic entity elects to use another equally effective term in lieu of “unwanted material,” as allowed by 262.206(a)(1)(i), the equally effective term has the same meaning and is subject to the same requirements as “unwanted material” under this subpart.

“Working container” means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

262.201. Applicability of this subpart.

262.201(a) Large quantity generators and small quantity generators This subpart provides alternative requirements to the requirements in 262.11 and 262.34(c) for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of 262.203.

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262.201(b) Conditionally exempt small quantity generators. This subpart provides alternative requirements to the conditional exemption in 261.5(b) for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of 262.203.

262.202. This subpart is optional.

262.202(a) Large quantity generators and small quantity generators: Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the requirements of 262.11 and 262.34(c).

262.202(b) Conditionally exempt small quantity generators. Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the conditional exemption of 261.5(b).

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

262.203(a) An eligible academic entity must notify the Department in writing, using Department's Notification and Reporting Form (DHEC Form 2701).

262.203(b) When submitting the Notification and Reporting Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

262.203(b)(1) Reason for Submittal.

262.203(b)(2) Site EPA Identification Number (except for conditionally exempt small quantity generators).

262.203(b)(3) Site Name.

262.203(b)(4) Site Location Information.

262.203(b)(5) Site Land Type.

262.203(b)(6) North American Industry Classification System (NAICS) Code(s) for the Site.

262.203(b)(7) Site Mailing Address.

262.203(b)(8) Site Contact Person.

262.203(b)(9) Operator and Legal Owner of the Site.

262.203(b)(10) Type of Regulated Waste Activity.

262.203(b)(11) Certification.

262.203(c) An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as its laboratories are subject to this subpart.

262.203(d) A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this subpart.

262.203(e) A non-profit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the non-profit research institute for as long as its laboratories are subject to this subpart.

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

262.204(a) An eligible academic entity must notify the Department in writing, using the Department's Notification and Reporting Form (DHEC Form 2701), that it is electing to no longer be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity under the same EPA Identification Number and that it will comply with the requirements of 262.11 and 262.34(c) for small quantity generators and large quantity generators. An eligible academic entity that is a conditionally exempt small quantity generator and does not have an EPA identification number must notify that it is withdrawing from the requirements of this subpart for all the laboratories owned by the eligible academic entity that are on-site and that it will comply with the conditional exemption in 261.5(b). An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA Identification Number (or site, for conditionally exempt small quantity generators) that is withdrawing from the requirements of the subpart and must submit the Site Identification Form before it begins operating under the requirements of 262.11 and 262.34(c) for small quantity generators and large quantity generators, or 261.5(b) for conditionally exempt small quantity generators.

262.204(b) When submitting the Notification and Reporting Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

262.204(b)(1) Reason for Submittal.

262.204(b)(2) Site EPA Identification Number (except for conditionally exempt small quantity generators).

262.204(b)(3) Site Name.

262.204(b)(4) Site Location Information.

262.204(b)(5) Site Land Type.

262.204(b)(6) North American Industry Classification System (NAICS) Code(s) for the Site.

262.204(b)(7) Site Mailing Address.

262.204(b)(8) Site Contact Person.

262.204(b)(9) Operator and Legal Owner of the Site.

262.204(b)(10) Type of Regulated Waste Activity.

262.204(b)(11) Certification.

262.204(c) An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

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262.205. Summary of the requirements of this subpart.

An eligible academic entity that chooses to be subject to this subpart is not required to have interim status or a RCRA Part B permit for the accumulation of unwanted material and hazardous waste in its laboratories, provided the laboratories comply with the provisions of this subpart and the eligible academic entity has a Laboratory Management Plan (LMP) in accordance with 262.214 that describes how the laboratories owned by the eligible academic entity will comply with the requirements of this subpart.

262.206. Labeling and Management Standards for Containers of Unwanted Material in the Laboratory.

An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this section.

262.206(a) Labeling: Label unwanted material as follows:

262.206(a)(1) The following information must be affixed or attached to the container:

262.206(a)(1)(i) The words "unwanted material" or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the Laboratory Management Plan, and

262.206(a)(1)(ii) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:

262.206(a)(1)(ii)(A) The name of the chemical(s)

262.206(a)(1)(ii)(B) The type or class of chemical, such as organic solvents or halogenated organic solvents

262.206(a)(2) The following information may be affixed or attached to the container, but must at a minimum be associated with the container:

262.206(a)(2)(i) The date that the unwanted material first began accumulating in the container, and

262.206(a)(2)(ii) Information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and hazardous waste and to assign the proper hazardous waste code(s), pursuant to 262.11. Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or hazardous waste include, but are not limited to:

262.206(a)(2)(ii)(A) The name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction,

262.206(a)(2)(ii)(B) Whether the unwanted material has been used or is unused,

262.206(a)(2)(ii)(C) description of the manner in which the chemical was produced or processed, if applicable.

262.206(b) An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

262.206(b)(1) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired, and

262.206(b)(2) Containers are compatible with their contents to avoid reactions between the contents and the container; and are made of, or lined with, material that is compatible with the unwanted material so that the container's integrity is not impaired, and

262.206(b)(3) Containers must be kept closed at all times, except:

262.206(b)(3)(i) When adding, removing or consolidating unwanted material, or

262.206(b)(3)(ii) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed, or

262.206(b)(3)(iii) When venting of a container is necessary

262.206(b)(3)(iii)(A) For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs, or

262.206(b)(3)(iii)(B) To prevent dangerous situations, such as build-up of extreme pressure.

262.207. Training.

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, as follows:

262.207(a) Training for laboratory workers and students must be commensurate with their duties so they understand the requirements in this subpart and can implement them.

262.207(b) An eligible academic entity can provide training for laboratory workers and students in a variety of ways, including, but not limited to:

262.207(b)(1) Instruction by the professor or laboratory manager before or during an experiment; or

262.207(b)(2) Formal classroom training; or

262.207(b)(3) Electronic/written training; or

262.207(b)(4) On-the-job training; or

262.207(b)(5) Written or oral exams.

262.207(c) An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in 265.16(e) demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:

262.207(c)(1) Sign-in/attendance sheet(s) for training session(s); or

262.207(c)(2) Syllabus for training session; or

262.207(c)(3) Certificate of training completion; or

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262.207(c)(4) Test results.

262.207(d) A trained professional must:

262.207(d)(1) accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory, and

262.207(d)(2) make the hazardous waste determination, pursuant to 262.11, for unwanted material.

262.208. Removing containers of unwanted material from the laboratory.

262.208(a) Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:

262.208(a)(1) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed 6 months; or

262.208(a)(2) Remove containers of unwanted material from each laboratory within 6 months of each container's accumulation start date.

262.208(b) The eligible academic entity must specify in Part I of its Laboratory Management Plan whether it will comply with paragraph (a)(1) or (a)(2) of this section for the regular removal of unwanted material from its laboratories.

262.208(c) The eligible academic entity must specify in Part II of its Laboratory Management Plan how it will comply with paragraph (a)(1) or (a)(2) of this section and develop a schedule for regular removals of unwanted material from its laboratories.

262.208(d) Removing containers of unwanted material when volumes are exceeded.

262.208(d)(1) If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of 55 gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):

262.208(d)(1)(i) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 55 gallons is exceeded; and

262.208(d)(1)(ii) Are removed from the laboratory within 10 calendar days of the date that 55 gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.

262.208(d)(2) If a laboratory accumulates more than 1 quart of reactive acutely hazardous unwanted material before the regularly scheduled removal, then the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

262.208(d)(2)(i) Are marked on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) with the date that 1 quart is exceeded; and

262.208(d)(2)(ii) Are removed from the laboratory within 10 calendar days of the date that 1 quart was exceeded, or at the next regularly scheduled removal, whichever comes first.

262.209. Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.

262.209(a) Large quantity generators and small quantity generators - an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to 262.11, for unwanted material in any of the following areas:

262.209(a)(1) In the laboratory before the unwanted material is removed from the laboratory, in accordance with 262.210;

262.209(a)(2) Within 4 calendar days of arriving at an on-site central accumulation area, in accordance with 262.211; and within 4 calendar days of arriving at an on-site interim status or permitted treatment, storage or disposal facility, in accordance with 262.212.

262.209(a)(3) Within 4 calendar days of arriving at an on-site interim status or permitted treatment, storage or disposal facility, in accordance with 262.212

262.209(b) Conditionally exempt small quantity generators – an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to 262.11, for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with 262.210.

262.210. Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory.

If an eligible academic entity makes the hazardous waste determination, pursuant to 262.11, for unwanted material in the laboratory, it must comply with the following:

262.210(a) A trained professional must make the hazardous waste determination, pursuant to 262.11, before the unwanted material is removed from the laboratory.

262.210(b) If an unwanted material is a hazardous waste, the eligible academic entity must:

262.210(b)(1) Write the words “hazardous waste” on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory; and

262.210(b)(2) Write the appropriate hazardous waste codes(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste is transported off-site.

262.210(b)(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to 261.5(c) and (d), in the calendar month that the hazardous waste determination was made.

262.210(c) A trained professional must accompany all hazardous waste that is transferred from the laboratory(ies) to an on-site central accumulation area or on-site interim status or permitted treatment, storage or disposal facility.

262.210(d) When hazardous waste is removed from the laboratory.

262.210(d)(1) Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area, or on-site interim status or permitted treatment, storage or disposal facility, or transported off-site.

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262.210(d)(2) Conditionally exempt small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in 261.5(f)(3) for acute hazardous waste, or 261.5(g)(3) for hazardous waste

262.210(e) An unwanted material that is a hazardous waste is subject to all applicable hazardous waste regulations when it is removed from the laboratory.

262.211. Making the hazardous waste determination at an on-site central accumulation area.

If an eligible academic entity makes the hazardous waste determination, pursuant to 262.11, for unwanted material at an on-site central accumulation area, it must comply with the following:

262.211(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area.

262.211(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area

262.211(c) The unwanted material becomes subject to the generator accumulation regulations of 262.34(a) for large quantity generators or 262.34(d)-(f) for small quantity generators as soon as it arrives in the central accumulation area, except for the “hazardous waste” labeling requirements of 262.34(a)(3)

262.211(d) A trained professional must determine, pursuant to 262.11, if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials’ arrival at the on-site central accumulation area.

262.211(e) If the unwanted material is a hazardous waste, the eligible academic entity must:

262.211(e)(1) Write the words “hazardous waste” on the container label that is affixed or attached to the container, within 4 calendar days of arriving at the on-site central accumulation area and before the hazardous waste may be removed from the on-site central accumulation area, and

262.211(e)(2) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site, and

262.211(e)(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to 261.5(c) and (d) in the calendar month that the hazardous waste determination was made, and

262.211(e)(4) Manage the hazardous waste according to all applicable hazardous waste regulations.

262.212. Making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility.

If an eligible academic entity makes the hazardous waste determination, pursuant to 262.11, for unwanted material at an on-site interim status or permitted treatment, storage or disposal facility, it must comply with the following:

262.212(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site interim status or permitted treatment, storage or disposal facility.

262.212(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site interim status or permitted treatment, storage or disposal facility.

262.212(c) The unwanted material becomes subject to the terms of the eligible academic entity's hazardous waste permit or interim status as soon as it arrives in the on-site treatment, storage or disposal facility.

262.212(d) A trained professional must determine, pursuant to 262.11, if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage or disposal facility.

262.212(e) If the unwanted material is a hazardous waste, the eligible academic entity must:

262.212(e)(1) Write the words "hazardous waste" on the container label that is affixed or attached to the container (or on the label that is affixed or attached to the container, if that is preferred) within 4 calendar days of arriving at the on-site interim status or permitted treatment, storage or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage or disposal facility, and

262.212(e)(2) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed on-site or transported off-site, and

262.212(e)(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to 261.5(c) and (d) in the calendar month that the hazardous waste determination was made, and

262.212(e)(4) Manage the hazardous waste according to all applicable hazardous waste regulations

262.213. Laboratory clean-outs.

262.213(a) One time per 12 month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this subpart, except that:

262.213(a)(1) If the volume of unwanted material in the laboratory exceeds 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), the eligible academic entity is not required to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by 262.208. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within 30 calendar days from the start of the laboratory clean-out; and

262.213(a)(2) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in part 261, subpart D or exhibiting one or more characteristics in part 261, subpart C) generated solely during the laboratory clean-out toward its hazardous waste generator status, pursuant to 261.5(c) and (d). An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator status, pursuant to 261.5(c) and (d), if it is determined to be hazardous waste; and

262.213(a)(3) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator status under paragraph (a)(2) of this section, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of hazardous waste (i.e., the conditionally exempt small quantity generator limits of 261.5), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off-site; and

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262.213(a)(4) An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and

262.213(b) For all other laboratory clean-outs conducted during the same 12-month period, an eligible academic entity is subject to all the applicable requirements of this subpart, including, but not limited to:

262.213(b)(1) The requirement to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by 262.208; and

262.213(b)(2) The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator status, pursuant to 261.5(c) and (d).

262.214. Laboratory management plans.

An eligible academic entity must develop and retain a written Laboratory Management Plan, or revise an existing written plan. The Laboratory Management Plan must contain two parts with a total of nine elements identified in paragraphs (a) and (b) of this section. In Part I of its Laboratory Management Plan, an eligible academic entity must describe its procedures for each of the elements listed in paragraph (a) of this section. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of the Laboratory Management Plan. In Part II of its Laboratory Management Plan, an eligible academic entity must describe its best management practices for each of the elements listed in paragraph (b) of this section.

262.214(a) The eligible academic entity must implement and comply with the specific provisions of Part I of its Laboratory Management Plan. In Part I of its Laboratory Management Plan, an eligible academic entity must:

262.214(a)(1) Describe procedures for container labeling in accordance with 262.206(a), including:

262.214(a)(1)(i) Identifying whether the eligible academic entity will use the term “unwanted material” on the containers in the laboratory. If not, identify an equally effective term that will be used in lieu of “unwanted material” and consistently by the eligible academic entity. The equally effective term, if used, has the same meaning and is subject to the same requirements as “unwanted material.”

262.214(a)(1)(ii) Identifying the manner in which information that is “associated with the container” will be imparted.

262.214(a)(2) Identify whether the eligible academic entity will comply with 262.208(a)(1) or (a)(2) for regularly scheduled removals of unwanted material from the laboratory.

262.214(b) In Part II of its Laboratory Management Plan, an eligible academic entity must:

262.214(b)(1) Describe its intended best practices for container labeling and management, including how the eligible academic entity will manage containers used for in-line collection of unwanted materials, such as with high performance liquid chromatographs and other laboratory equipment (see the required standards at 262.206).

262.214(b)(2) Describe its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards at 262.207(a)).

262.214(b)(3) Describe its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards at 262.207(d)(1)).

262.214(b)(4) Describe its intended best practices for removing unwanted material from the laboratory, including:

262.214(b)(4)(i) For regularly scheduled removals - Develop a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards at 262.208(a)(1) and (a)(2)).

262.214(b)(4)(ii) For removals when maximum volumes are exceeded:

262.214(b)(4)(ii)(A) Describe its intended best practices for removing unwanted materials from the laboratory within 10 calendar days when unwanted materials have exceeded their maximum volumes (see the required standards at 262.208(d)).

262.214(b)(4)(ii)(B) Describe its intended best practices for communicating that unwanted materials have exceeded their maximum volumes.

262.214(b)(5) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at 262.11 and 262.209 through 262.212).

262.214(b)(6) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in 262.213, including:

262.214(b)(6)(i) Procedures for conducting laboratory clean-outs (see the required standards at 262.213(a)(1) through (3)); and

262.214(b)(6)(ii) Procedures for documenting laboratory clean-outs (see the required standards at 262.213(a)(4)).

262.214(b)(7) Describe its intended best practices for emergency prevention, including:

262.214(b)(7)(i) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory; and

262.214(b)(7)(ii) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date and/or as they degrade; and

262.214(b)(7)(iii) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date and/or as they degrade; and

262.214(b)(7)(iv) Procedures for the timely characterization of unknown chemicals.

262.214(c) An eligible academic entity must make its Laboratory Management Plan available to laboratory workers, students, or any others at the eligible academic entity who request it.

262.214(d) An eligible academic entity must review and revise its Laboratory Management Plan, as needed.

262.215. Unwanted material that is not solid or hazardous waste.

262.215(a) If an unwanted material does not meet the definition of solid waste in 261.2, it is no longer subject to this subpart or to the RCRA hazardous waste regulations.

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262.215(b) If an unwanted material does not meet the definition of hazardous waste in 261.3, it is no longer subject to this subpart or to the RCRA hazardous waste regulations, but must be managed in compliance with any other applicable regulations and/or conditions.

262.216. Non-laboratory hazardous waste generated at an eligible academic entity.

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under this subpart; and

262.216(a) Remains subject to the generator requirements of 262.11 and 262.34(c) for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of part 262, with respect to that hazardous waste; or

262.216(b) Remains subject to the conditional exemption of 261.5(b) for conditionally exempt small quantity generators, with respect to that hazardous waste.

2. Performance Track Rule

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

262.34(j) Remove text of 262.34(j), (k), and (l) and reserve sections.

262.34(j) [Reserved]

262.34(k) [Reserved]

262. 34 (l) [Reserved]

264.15(b)(4) Revise section to read:

264.15(b)(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in 264.174, 264.193, 264.195, 264.226, 264.254, 264.278, 264.303, 264.347, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089 where applicable.

Remove sub-item 264.15 (b)(5) in its entirety.

264.174 Revise section to read:

264.174 Inspections - At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

[Comment: See 264.15(c) and 264.171 for remedial action required if deterioration or leaks are detected.]

264.195(e) remove section in its entirety.

264.1101(c)(4) Revise sub-item 264.1101(c)(4) to read:

264.1101(c)(4) Inspect and record in the facility's operating record, at least once every seven days, data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

265.15(b)(4) Revise to read:

265.15(b)(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in 265.174, 265.193, 265.195, 265.226, 265.260, 265.278, 265.304, 265.347, 265.377, 265.403, 265.1033, 265.1052, 265.1053, 265.1058, and 265.1084 through 265.1090, where applicable.

Delete 265.15(b)(5) as shown:**Revise 265.174 to read:**

265.174 At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

[Comment: See 265.171 for remedial action required if deterioration or leaks are detected.]

Delete text of 265.195(d) and Reserve.

265.195(d) [Reserved]

265.201(e) Delete text of 265.201(e) and Reserve.

265.201(e) [Reserved]

Revise 265.1101(c)(4) to read:

265.1102(c)(4) Inspect and record in the facility's operating record at least once every seven days, data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

270.42(l)(1)&(2) Remove requirements for Performance Track and/or the South Carolina Environmental Excellence Program.**Appendix I to 270.42 Part O Remove requirements for Performance Track and/or the South Carolina Environmental Excellence Program. The remainder of the Appendix I remains the same.**

Appendix I to 270.42 - Classification of Permit Modification

Fiscal Impact Statement:

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

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Statement of Need and Reasonableness:

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

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

Purpose of Regulation: (1) The purpose of this amendment is to maintain State consistency with regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 261 through 270, between July 1, 2008 and June 30, 2009. (2) The Department also proposes to remove all references to the National Environmental Performance Track Program (PT) and the analogous state program, the South Carolina Environmental Excellence Program (SCEEP).

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

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

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

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

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

DETERMINATION OF COSTS AND BENEFITS:

(1) Academic Laboratory Rule

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

(b) EPA estimates that Large Quantity Generators (LQG) in states that adopt this rule could see an average annual savings of \$12,200 per LQG opting into this rule; Small Quantity Generators (SQG) could see an average annual savings of \$1,000 per year and Conditionally Exempt Small Quantity Generators (CESQG) could see an increase so it is expected that CESQGs would not choose to be regulated under Subpart K. Overall, the average annual aggregate net cost savings for eligible academic entities operating under Subpart K are estimated at approximately \$396,000 or \$3,500 per entity. In addition, labs will benefit because they will be able to maintain their RCRA generator status rather than episodically increasing their generator status by generating lab clean outs. This will encourage labs to do regular cleanouts. The structured nature of the lab management plan (LMP) is expected to result in safer lab practices, minimize exposure to people and the environment, increase proper hazardous waste management and improve waste handling techniques and waste minimization.

(2) Performance Track Rule

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

UNCERTAINTIES OF ESTIMATES:

No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

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

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

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

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

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

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Statement of Rationale:

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

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

See Statement of Need and Reasonableness above.

Document No. 4180
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-56-10 et seq.

61-90. Minimum Standards for Licensing Chiropractic Facilities

Synopsis:

R.61-90 was promulgated and published as a final regulation in the *State Register* on April 27, 1984. Only a single facility was licensed under the regulation at any time. The facility's last license expired July 31, 2000. That facility subsequently closed. No other application to license an inpatient chiropractic facility has been received since that date.

South Carolina Act No. 278, July 1, 2010, amended the State Certification of Need and Health Facility Licensure Act, Section 44-7-110 et seq., SC Code of Laws, 1976, as amended. The amended Act at Section 44-7-260(A), deleted Chiropractic Inpatient Facilities from the list of facilities the Department is authorized to license, thus making R.61-90 null and void. In the interest of good government and efficiency, the Department has repealed R.61-90.

A Notice of Drafting for the proposed repeal was published in the *State Register* on October 22, 2010.

Instructions: Repeal R.61-90, Minimum Standards for Licensing Chiropractic Facilities.

Text:

61-90. [Repealed]

Fiscal Impact Statement:

The repeal of R.61-90 will have no substantial fiscal or economic impact on the State and its political subdivisions.

Statement of Need and Reasonableness:

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

DESCRIPTION OF REGULATION: Repeal of Regulation 61-90, Minimum Standards for Licensing Chiropractic Facilities.

Purpose: Repeal of R.61-90, Minimum Standards for Licensing Chiropractic Facilities.

Legal Authority: Sections 44-7-10 et seq., S.C. Code of Laws, 1976, as amended.

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

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

R.61-90 was promulgated and published as a final regulation in State Register on April 27, 1984. Only a single facility was licensed under the regulation at any time. The facility's last license expired July 31, 2000. That facility subsequently closed. No other application to license an inpatient chiropractic facility has been received since that date. Act No. 278 of 2010, effective July 1, 2010, amended the State Certification of Need and Health Facility Licensure Act at Section 44-7-110 et seq., and at Section 44-7-260(A) deleted chiropractic inpatient facilities from the list of facilities the Department is authorized to license, thus making R.61-90 null and void. In the interest of good government and efficiency, the Department has repealed this regulation.

DETERMINATION OF COSTS AND BENEFITS:

The repeal of R.61-90 will have no substantial fiscal or economic impact on the State and its political subdivisions or the regulated community.

UNCERTAINTIES OF ESTIMATES:

No known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no environmental or public health effect.

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

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

Statement of Rationale:

Upon review of Department regulations and the status of this regulation pursuant to Act 278 of 2010, it was determined that R.61-90 should be repealed because it is obsolete and no longer enforceable.