

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.

2013 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	1/11	2/8	3/8	4/12	5/10	6/14	7/12	8/9	9/13	10/11	11/8	12/13
Publishing Date	1/25	2/22	3/22	4/26	5/24	6/28	7/26	8/23	9/27	10/25	11/22	12/27

REPRODUCING OFFICIAL DOCUMENTS

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

PUBLIC INSPECTION OF DOCUMENTS

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

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

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

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

EMERGENCY REGULATIONS

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

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

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

EFFECTIVE DATE OF REGULATIONS

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

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

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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. FINAL NO. ISSUE	SUBJECT	EXP. DATE	AGENCY
4210		Licensed Midwives	5/08/13	Department of Health and Envir Control
4259		South Carolina Immunization Registry	5/08/13	Department of Health and Envir Control
4261		Graduation Requirements	5/08/13	State Board of Education
4285		Transfers and Withdrawals	5/08/13	State Board of Education
4283		Oral Argument	5/08/13	Workers' Compensation Commission
4286		Mediation	5/08/13	Workers' Compensation Commission
4237		Definitions	5/08/13	LLR-Panel for Dietetics
4168		Perpetual Care Cemetery Board	5/08/13	Perpetual Care Cemetery Board
4282		Requirements of Licensure for Chiropractors	5/08/13	Board of Chiropractic Examiners
4311		Sign Requirements for Petitions to Close Road	5/08/13	Department of Transportation
4294		Defined Program, Grades 9-12	5/08/13	State Board of Education
4312		Specific Information Service Signing	5/08/13	Department of Transportation
4303		Buildings and Grounds-Cleaning Program	5/08/13	State Board of Education
4304		Buildings and Grounds. Defined Minimum Program for South Carolina School District	5/08/13	State Board of Education
4305		Building and Grounds-Heating and Lighting	5/08/13	State Board of Education
4306		Buildings and Grounds Management-Fire Prevention	5/08/13	State Board of Education
4307		Facility Specifications	5/08/13	State Board of Education
4310		Project Plans and Specifications	5/08/13	State Board of Education
4309		Procedures and Standards for Review of Charter School Applications	5/08/13	State Board of Education
4226		Duties and Responsibilities of Department; Modular Buildings Construction	5/08/13	Building Codes Council
4243		Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses	5/08/13	Manufactured Housing Board
4301		Notification and Fees Summary Procedures - Licensing, Adjustment of Dollar Amounts, Filing and Posting Maximum Rate Schedules, and "Lemon Law" Records and Arbitration	5/08/13	Department of Consumer Affairs
4302		Organization, Other Cases - Summary Procedure, Place of Hearings, Case Numbers and Titles, Form and Size of Papers, Filing and Service, Procedure, Contents of Formal Complaint, Answers, Pleadings and Action, Investigative Cases, Hearings, Evidence, and Close of Hearing	5/08/13	Department of Consumer Affairs
4296		Controlled Substances	5/09/13	Department of Health and Envir Control
4308		Gifted and Talented	5/15/13	State Board of Education
4231		Requirements of Licensure for Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists	5/17/13	Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists
4252		Residential Specialty Contractors License	5/17/13	Residential Builders Commission
4264		Duplicate Wall or Pocket Card Licenses; Fees	5/17/13	Auctioneers' Commission
4268		Fees	5/17/13	Board of Funeral Service
4318		Requirements of Licensure for Funeral Service Providers	5/17/13	Board of Funeral Service
4320		International Building Code, International Fire Code, International Fuel Gas Code, and National Electrical Code	5/17/13	LLR-Building Codes Council
4321		International Residential Code	5/17/13	LLR-Building Codes Council
4297		Seasons, Limits, Methods of Take and Special Use		
4327		Restrictions on Wildlife Management Areas	5/20/13	Department of Natural Resources
4327		Code of Ethics, Interpretation of Standards, and Reporting of Disciplinary Actions	5/30/13	LLR-Panel for Dietetics
4328		Requirements of Licensure for Occupational Therapists	5/30/13	Occupational Therapy Board
4314		Agritourism and Tourism-Oriented Directional Signing	5/31/13	Department of Transportation
4317		Unemployment Insurance	6/06/13	Department of Employment and Workforce
Permanently Withdrawn				
4288		Standards for Licensing In-Home Care Providers		Department of Health and Envir Control
4290		Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas		Department of Natural Resources

2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

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

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4210	Licensed Midwives	Medical, Military, Pub & Mun Affairs	Medical Affairs
4259	South Carolina Immunization Registry	Medical, Military, Pub & Mun Affairs	Medical Affairs
4261	Graduation Requirements	Education and Public Works	Education
4285	Transfers and Withdrawals	Education and Public Works	Education
4283	Oral Argument	Labor, Commerce and Industry	Judiciary
4286	Mediation	Labor, Commerce and Industry	Judiciary
4237	Definitions	Medical, Military, Pub & Mun Affairs	Medical Affairs
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4282	Requirements of Licensure for Chiropractors	Medical, Military, Pub & Mun Affairs	Medical Affairs
4311	Sign Requirements for Petitions to Close Road	Education and Public Works	Transportation
4294	Defined Program, Grades 9-12	Education and Public Works	Education
4312	Specific Information Service Signing	Education and Public Works	Transportation
4303	Buildings and Grounds-Cleaning Program	Education and Public Works	Education
4304	Buildings and Grounds. Defined Minimum Program for South Carolina School District	Education and Public Works	Education
4305	Building and Grounds-Heating and Lighting	Education and Public Works	Education
4306	Buildings and Grounds Management-Fire Prevention	Education and Public Works	Education
4307	Facility Specifications	Education and Public Works	Education
4310	Project Plans and Specifications	Education and Public Works	Education
4309	Procedures and Standards for Review of Charter School Applications	Education and Public Works	Education
4226	Duties and Responsibilities of Department; Modular Buildings Construction	Labor, Commerce and Industry	Labor, Commerce and Industry
4243	Board Authorized to Make Investigations and Deny, Suspend or Revoke Licenses	Labor, Commerce and Industry	Labor, Commerce and Industry
4301	Notification and Fees Summary Procedures - Licensing, Adjustment of Dollar Amounts, Filing and Posting Maximum Rate Schedules, and "Lemon Law" Records and Arbitration Organization, Other Cases - Summary Procedure, Place of Hearings, Case Numbers and Titles, Form and Size of Papers, Filing and Service, Procedure, Contents of Formal Complaint, Answers, Pleadings and Action, Investigative Cases, Hearings, Evidence, and Close of Hearing	Labor, Commerce and Industry	Banking and Insurance
4302	Controlled Substances	Medical, Military, Pub & Mun Affairs	Banking and Insurance
4296	Gifted and Talented	Education and Public Works	Medical Affairs
4308	Requirements of Licensure for Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists	Medical, Military, Pub & Mun Affairs	Education
4231	Residential Specialty Contractors License	Labor, Commerce and Industry	Labor, Commerce and Industry
4252	Duplicate Wall or Pocket Card Licenses; Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4264	Fees	Labor, Commerce and Industry	Labor, Commerce and Industry
4268	Requirements of Licensure for Funeral Service Providers	Labor, Commerce and Industry	Labor, Commerce and Industry
4318	International Building Code, International Fire Code, International Fuel Gas Code, and National Electrical Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4320	International Residential Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4321	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Labor, Commerce and Industry
4297	Code of Ethics, Interpretation of Standards, and Reporting of Disciplinary Actions	Labor, Commerce and Industry	Fish, Game and Forestry
4327	Requirements of Licensure for Occupational Therapists	Labor, Commerce and Industry	Labor, Commerce and Industry
4328	Agritourism and Tourism-Oriented Directional Signing	Education and Public Works	Labor, Commerce and Industry
4314	Unemployment Insurance	Labor, Commerce and Industry	Transportation
4317			Labor, Commerce and Industry
Permanently Withdrawn			
4288	Standards for Licensing In-Home Care Providers	Medical, Military, Pub & Mun Affairs	Medical Affairs
4290	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry

Executive Order No. 2013-03

WHEREAS, on January 25, 2013, the National Weather Service issued a Winter Weather Advisory for portions of the State;

WHEREAS, wintry precipitation, mostly in the form of freezing rain mixed with snow or sleet, were forecasted to produce hazardous conditions on roads, bridges, and overpasses;

WHEREAS, these conditions posed a threat to the safety of the State's citizens, therefore State government offices were closed early on January 25, 2013 in the following counties in accordance with county government offices: Oconee County, Pickens County, Spartanburg County, Laurens County, Greenville County, Cherokee County, Lancaster County, York County, Union County, Chester County, and Fairfield County; and

NOW, THEREFORE, pursuant to Section 8-11-57 of the South Carolina Code of Laws, all State employees leaving work early as directed on January 25, 2013 due to the closing of State offices caused by hazardous weather conditions are hereby granted leave with pay for the hours missed.

This Order shall take effect immediately.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 4TH DAY OF FEBRUARY, 2013.**

**NIKKI R. HALEY
Governor**

4 NOTICES

BUDGET AND CONTROL BOARD BOARD OF ECONOMIC ADVISORS

NOTICE OF GENERAL PUBLIC INTEREST

We have calculated the increase in the limit on compensation for noneconomic damages on a medical malpractice claim. Pursuant to Section 15-32-220(F), the limit on civil liability for noneconomic damages on a medical malpractice claim is adjusted each fiscal year based on the increase or decrease in the ratio of the Consumer Price Index for All Urban Consumers as of December 31 of the previous calendar year. The adjustment is a cumulative index using a base year 2004. The 2004 base year was adopted to be consistent with the timing of the enacting legislation. As of December 31, 2012, the Index published by the Bureau of Labor Statistics, *Monthly Labor Review*, Table 38, "Consumer Price Index for All Urban Consumers", increased by 20.7% from a value of 190.3 in December 2004 to 229.601 in December 2012. Therefore, the limit not to exceed \$350,000 would increase to \$422,280 against a single health care provider and a health care institution for each claimant for civil liability for noneconomic damages on medical malpractice claims when final judgment is rendered. Also, the limit not to exceed \$1,050,000 would increase to \$1,266,845 for all health care providers and all health care institutions for each claimant for civil liability for noneconomic damages on medical malpractice claims. The adjusted limitations on compensation for noneconomic damages become effective upon publication in the *State Register* pursuant to Section 1-23-40(2).

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 February 22, 2013, 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 Dorchester County

Transfer of six (6) Residential Treatment Facility (RTF) Beds from Palmetto Lowcountry Behavioral Health, located at 2777 Speissegger Drive, Charleston, SC, to Palmetto Pines Behavioral Health located at 225 Midland Parkway, Summerville, SC for a total of sixty-six (66) licensed RTF beds
ABS LINCS SC, Inc., d/b/a Palmetto Pines
Summerville, South Carolina
Project Cost: \$39,008

Affecting Spartanburg County

Addition of a Cyberknife Stereotactic Radiosurgery System and construction of a vault to house the system
Spartanburg Regional Health Services District, Inc. d/b/a Spartanburg Regional Medical Center d/b/a Spartanburg Regional Medical Center d/b/a Gibbs Regional Cancer Center at Pelham
Greer, South Carolina
Project Cost: \$8,346,395

Affecting Williamsburg County

Renounce designation as a twenty-five (25) bed Critical Access Hospital (CAH); relicense fifty-three (53) beds that were delicensed as a CAH requirement, resulting in a total bed capacity of seventy-eight (78) acute care beds

Williamsburg Regional Hospital

Williamsburg, South Carolina

Project Cost: \$325,000

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from February 22, 2013. "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 Georgetown County

Renovation to create a new diagnostic cardiac catheterization laboratory and purchase of replacement cardiac catheterization equipment; the existing space and equipment will be converted to an angiography suite

Georgetown Memorial Hospital

Georgetown, South Carolina

Project Cost: \$3,982,344

Affecting Spartanburg County

Addition of sixteen (16) community nursing home beds, and the conversion of eleven (11) institutional nursing home beds to community beds for a total of sixty (60) community nursing home beds that will not participate in the Medicaid (Title XIX) Program

EmeriCare Skylyn Place LLC d/b/a Emeritus at Skylyn Health Care Center

Spartanburg, South Carolina

Project Cost: \$2,977,800

6 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

South Carolina Department of Health and Environmental Control vs. Horton Sales Development Corp., et al.,
Civil Action No. 6:11cv1657-HMH

DHEC-Bureau of Land and Waste Management, File #56198
Horton Sales Development Corporation—Piedmont Site

NOTICE OF: SETTLEMENT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Settlement Agreement (Agreement) with Cardinal Container Services, Inc. (Settling Defendant). Upon approval by the Court, the Agreement provides a settlement payment of \$25,000 to DHEC as final judgment against the Settling Defendant. The Agreement is subject to a thirty-day public comment period, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9622, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (as amended).

The Agreement relates to the release, and threatened release, of hazardous substances, pollutants, or contaminants at the former Horton Sales Development Corporation—Piedmont Site located in Greenville County, at 1870 Piedmont Highway, Piedmont, South Carolina. In consideration of the foregoing, the Agreement provides for a release of the Settling Defendant from further liability and confers contribution protection to the Settling Defendant pursuant to CERCLA 42 U.S.C. § 9613.

Notice of Settlement, Contribution Protection and Comment Period will be provided to potentially responsible parties via email or US mail. The Agreement is available:

- (1) On-line at <http://www.dhec.sc.gov/environment/lwm/publicnotice.htm>; or
- (2) By contacting Pat Vincent at 803-896-4074 or vincenpl@dhec.sc.gov.

Any comments to the Agreement must be submitted in writing, postmarked no later than March 25, 2013, and addressed to: Pat Vincent, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201. The Agreement will be filed with the Court for approval.

UPON APPROVAL AND ENTRY OF THE AGREEMENT BY THE COURT, ANY AND ALL CLAIMS BY ANY AND ALL PERSONS AGAINST SETTTLING DEFENDANT SEEKING CONTRIBUTION PROTECTION FOR MATTERS ENCOMPASSED BY THE AGREEMENT SHALL BE FORECLOSED.

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

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

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

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than March 25, 2013 to:

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

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

Class I

Petra-Tech Environmental, LLC,
Attn: Lindsey M. Grooms
2435 East North St, Ste 1108-202
Greenville, SC 29615

8 DRAFTING NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

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

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend specific sections of Regulation 61-68, Water Classifications and Standards, and Regulation 61-69, Classified Waters. Interested persons are invited to submit their views and recommendations in writing to Jason Gillespie, Water Quality Standards Coordinator, Bureau of Water, 2600 Bull Street, Columbia, South Carolina 29201 or via email at gillesjl@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on March 25, 2013, the close of the drafting comment period.

Synopsis:

Section 303(c)(2)(B) of the Federal Clean Water Act (CWA) requires that South Carolina's water quality standards be reviewed and revised, where necessary, at least once every three years for the purposes of considering the Environmental Protection Agency's (EPA) most recent numeric and narrative criteria and to comply with recent Federal regulatory revisions and recommendations. This process is commonly referred to as the "triennial review" and the Department has prepared this notice of drafting to begin the required triennial review process.

In accordance with the CWA, states are required to adopt numeric criteria for Section 307(a) priority toxic pollutants for which the EPA has published Section 304(a) criteria. EPA has published Guidance for Implementing the January 2001 Methylmercury Water Quality Criterion, EPA 823-R-10-001 (April 2010). The April 2010 document provides guidance for states on how to use the new fish tissue-based criterion recommendation in developing water quality standards for methylmercury and in implementing those standards in NPDES permits. The Department is proposing to adopt the 2001 methylmercury water quality criterion and is soliciting comments on the standard, its implementation and other issues related to the criterion. Depending on the direction taken in adopting the standard and the resulting implementation, Regulation 61-69, Classified Waters, may need to be amended to remain consistent with the amendments in Regulation 61-68, Water Classifications and Standards.

The Department may make other stylistic changes to amend both regulations for internal consistency; clarification in wording; corrections of references, grammatical errors, outlining/codification and such other changes as may be necessary to improve the overall quality of the regulation pursuant to regulation drafting standards required by the Legislative Council.

Legislative review will be required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF ELEVATORS AND AMUSEMENT RIDES CHAPTER 71

Statutory Authority: 1976 Code Sections 41-16-40, 41-16-70, 41-18-70, 41-18-80, and 41-18-120

Notice of Drafting:

The South Carolina Office of Elevators and Amusement Rides Safety proposes to amend Regulations 71-4800 and 71-5400 regarding qualification of special inspectors. Interested persons may submit comments to Duane Scott, Administrator, Office of Elevators and Amusement Rides Safety, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Office of Elevators and Amusement Rides Safety proposes to amend Regulations 71-4800 and 71-5400 regarding qualification of special inspectors. Legislative review of this amendment is required.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF OCCUPATIONAL SAFETY AND HEALTH
CHAPTER 71**

Statutory Authority: 1976 Code Sections 41-3-40 and 41-15-210

Notice of Drafting:

The South Carolina Office of Occupational Safety and Health proposes to amend Regulations 71-400 through 71-407, add new Regulation 71-408, and amend Regulations 71-408 through 71-410 to reflect recent amendments made to the South Carolina Occupational Safety and Health Act. Interested persons may submit comments to Dorothy Ison, Administrator, Office of Occupational Safety and Health, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Office of Occupational Safety and Health proposes to amend Regulations 71-400 through 71-407, add new Regulation 71-408, and amend Regulations 71-408 through 71-410 to reflect recent amendments made to the South Carolina Occupational Safety and Health Act. Legislative review of this amendment is required.

**REAL ESTATE APPRAISERS BOARD
CHAPTER 137**

Statutory Authority: 1976 Code Sections 40-1-70 and 40-60-10(I)(3)

Notice of Drafting:

The South Carolina Real Estate Appraisers Board proposes to amend its regulations in conformance with its practice act. Interested persons may submit comments to Roderick Atkinson, Administrator, State Real Estate Appraisers Board, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Real Estate Appraisers Board proposes to amend its regulations. Legislative review of this amendment is required.

10 PROPOSED REGULATIONS

Document No. 4341
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-13-2011

123-209. Term and Conditions for the Public's Use of Lakes and Ponds Owned by the Department of Natural Resources

123-210. Term and Conditions for the Public's Use of Lakes and Ponds Leased by the Department of Natural Resources

Preamble:

The Department of Natural Resources (the department) proposes to establish Regulation 123-209 setting the terms and conditions for the public use of lakes and ponds owned the department for the purpose of providing public fishing and Regulation 123-210 setting terms and conditions for the public's use of lakes and ponds leased by the department for the purpose of providing public fishing.

The Notice of Drafting regarding these regulations was published on December 28, 2012 in the *State Register*.

Section-by-Section Discussion

123-209. Term and Conditions for the Public's Use of Lakes and Ponds Owned by the Department of Natural Resources.

New text.

A. Provides reference to the department's statutory management authority over lakes owned by the department.

B. Provides reference to the statutory prohibition of certain acts and conduct on department owned lands and provides the terms and conditions for the use of lakes and ponds owned by the department.

123-210. Term and Conditions for the Public's Use of Lakes and Ponds Leased by the Department of Natural Resources.

New text.

A. Provides reference to the department's statutory management authority over lakes leased by the department.

B. Provides terms and conditions for the use of lakes and ponds leased by the department.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such hearing will be conducted before the Board of the Department of Natural Resources, 1000 Assembly Street, Columbia, SC on March 22, 2013 at 10:00 am. Written comments may be directed to Emily Cope, Wildlife & Freshwater Fisheries Division, Department of Natural Resources, Post Office Box 167, Columbia, SC 29202. Written comments should be submitted on or before 9:00 am on March 22, 2013. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

Establishment of these regulations will not result in any additional costs to the State. The State and local communities will continue to benefit economically from the activities of the public accessing and utilizing the lakes and ponds for recreational fishing and outdoor recreation.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATIONS:

Purpose: The repeal of 1976 Code Section 50-13-2020 has rendered the existing regulations defining the terms and conditions for the public's use of lakes and ponds owned and leased by the department unenforceable. These regulations will define the terms and conditions for public use to insure protection of the natural resources and facilities associated with these lakes and ponds.

Legal Authority: Under 1976 Code Section 50-13-2011 of the department may establish terms and conditions under which the public may use the lakes and ponds owned or leased by the department. Additionally, 1976 Code Section 50-11-2200 prohibits certain acts and conduct on department owned lands unless the departments established regulations to allow any of the acts or conduct under prescribed conditions.

Plan for Implementation: Once the regulation has been approved by the General Assembly, the Department will incorporate all regulations in the annual Rules and Regulations Brochure. The public will be notified through this publication, through signage posted at each lake or pond, and through news releases and other Department media outlets and publications.

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

The repeal of 1976 Code Section 50-13-2020 has rendered the existing regulations defining the terms and conditions for the public's use of lakes and ponds owned and leased by the department unenforceable. These regulations will define the terms and conditions for public use to insure protection of the natural resources and facilities associated with these lakes and ponds. The establishment of these regulations will allow for the continued sustainable use of these areas by the public.

DETERMINATION OF COSTS AND BENEFITS:

Implementation of the proposed regulation will not require any additional costs to the state or to the angling community.

UNCERTAINTIES OF ESTIMATES:

Staff does not anticipate any increased costs with the promulgation of this regulation. Accordingly, no costs estimates and the uncertainties associated with them are provided.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The promulgation of this regulation will not have any impacts on public health.

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

No detrimental impact on public health or the environment will occur if this proposed regulation is not implemented. Failure to implement this regulation will prevent positive benefits to public.

12 PROPOSED REGULATIONS

Statement of Rationale:

Regulation 123-209 is added to establish the terms and conditions to provide for the public's use of lakes and ponds owned by the department for the purpose of providing public fishing.

Regulation 123-210 is added to establish the terms and conditions to provide for the public's use of lakes and ponds leased by the department for the purpose of providing public fishing.

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.

Document No. 4342
BOARD OF NURSING
CHAPTER 91

Statutory Authority: 1976 Code Sections 40-1-70, 40-33-10(E) and (I), 40-33-1335(4), and 40-33-1345(C)

91-2. Nurse Licensure Compact

Preamble:

To satisfy the requirements of licensure in the field of nursing, Regulation 91-2 must be updated in conformance with the Board of Nursing Practice Act and the Nurse Licensure Compact Administrators rules and regulations.

Notice of Drafting was published in the *State Register* on January 25, 2013.

Section-by-Section Discussion:

91-2. Nurse Licensure Compact.

- A. No changes.
- B. 1.-2.c. No changes.
- B. 2.d.-e. New subsections; adds Military Form No. 2058 and W2 form as proof of state of residence.
- B. 3.-5. New subsections; adds clarification for foreign nurse applicants and single state licenses.
- B. 6.-9. Renumbers former 3.-6. for clarity; in 6., changes 30 to 90 days, and in 7., specifies time period as 90 days.
- C. Adds "Discipline" to subsection title and numbers for clarity.
- C. 2. New subsection; adds that licensee who had prior disciplined license in a prior state of primary residence may be issued a single state license in a new primary state of residence until eligible for an unrestricted license by the prior state.
- D. 1.-3. c. No changes.
- D. 4.-5. Renumbers former d.-e. for clarity.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(A)(3) of the 1976 Code, as amended, such a hearing will be conducted at the Administrative Law Court at 10:00 a.m. on April 10, 2013. Written comments may be directed to Nancy Murphy, Administrator, South Carolina Board of Nursing, Department of Labor,

Licensing, and Regulation, Post Office Box 12367, Columbia, South Carolina 29211-2367, or by email to nancy.murphy@llr.sc.gov, no later than 5:00 p.m., March 25, 2013. If a qualifying request pursuant to Section 1-23-110(A)(3) is not timely received, the hearing will be canceled.

Preliminary Fiscal Impact Statement:

There will be no cost incurred by the State or any of its political subdivisions.

Statement of Need and Reasonableness:

This regulation is amended in conformance with the Nurse Practice Act. Reg. 91-2 provides for the administration of the nurse licensure compact by adopting the uniform rules and regulations of Nurse Licensure Compact Administrators (NLCA) in compliance with S.C. Code Ann. §§40-33-1335(4) and 40-33-1345(C). The uniform rules and regulations were recently amended on November 13, 2012.

DESCRIPTION OF REGULATION:

Purpose: The board is updating the regulation to conform to the practice act.

Legal Authority: 1976 Code Sections 40-1-70, 40-33-10(E) and (I), 40-33-1335(4), and 40-33-1345(C).

Plan for Implementation: The revised regulation will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the revised regulation and post the revised regulation on the agency's web site.

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

The proposed regulation will prevent conflict between existing national regulations and the practice act.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for this regulation.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulation.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation will have no effect on the environment. This regulation contributes to the board's function of protecting public health in the state of South Carolina.

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

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

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Statement of Rationale:

This regulation is updated in conformance with the current Board of Nursing Practice Act.

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.

Document No. 4340
DEPARTMENT OF PUBLIC SAFETY
CHAPTER 38

Statutory Authority: 1976 Code Sections 23-6-20 and 23-6-400 et seq.

38-600. Regulation of Wrecker Services

Preamble:

The Department of Public Safety ("Department") proposes to amend regulation 38-600. The proposed amendment revises the process for wrecker services to apply to be on the rotation list and revises the requirements that wreckers services must meet to be on the list. A Notice of Drafting for the Proposed Regulations was published in the *State Register* on November 23, 2012. A discussion of the proposed regulations and statement of need and reasonableness is contained herein.

Section-by-Section Discussion

38-600. The changes will update existing regulations to enhance the administration of the Department's Wrecker Rotation List by making the following changes:

(A) No changes have been made to this section;

(B) Clarifying duties of wrecker services regarding signage at wrecker locations, adding a requirement to provide with the application documentation regarding training and certifications; formatting changes were made to item (4) dealing with insurance coverage and a requirement was added to require wrecker services to authorize the Department to contact insurance companies to verify insurance coverage of the wrecker service; adding a requirement for background checks for drivers and owners; adding automatic disqualifiers for certain convictions for drivers and owners; language regarding procedures for correcting deficiencies of a wrecker service in the application process has been revised;

(C) Adding a requirement that photographs of the business, signage and storage facility must be submitted with the application of the wrecker service; adding language to provide that the vehicle registration and license plate must be released to the owner with other personal property; adding language to clarify that wrecker services who refuse to take collect calls will lose the rotation call and be placed at the bottom of the rotation list; adding language to clarify that clean up at the incident site must be done to the satisfaction of the officer in charge; adding language to specify that a vehicle must be towed by the responding wrecker service called on rotation and not a wrecker service called to assist; adding a requirement for companies to accept credit cards for Department tows; adding training requirements for Class C (heavy duty) wreckers;

(D) Adding language to provide that on an annual basis the advisory committee will set fees and determine certification/training requirements for wrecker services desiring to be on the rotation list; additionally, this section has been amended to provide the training/certification requirements and regulations for wrecker services shall be placed on the Department's website; language has been added to provide for a representative from the Department of Transportation to be added to the Advisory Committee;

(E) This section has been amended by adding language to provide the wrecker service which responds must be able to operate and perform recovery operations for the class of wrecker with which they respond; also, language has been added to provide for minimum standards for Class C wreckers;

(F) This section has been amended to provide that rates charged by wrecker services on the rotation must conform to the rates set by the advisory committee on an annual basis; language has also been added to establish how the validity of rates will be determined;

Finally, Appendix A has been added which provides for the list of disqualifying offenses for wrecker owners and drivers.

Notice of Public Hearing and Opportunity for Public Comment:

The South Carolina Department of Public Safety will conduct a public hearing for the purpose of receiving oral comments, data, views or arguments on April 9, 2013 at 10:00 a.m. if requested in accordance with the provisions of Section 1-23-110(A)(3) by twenty-five persons, by a governmental sub-division or agency, or by an association having not less than twenty-five members. Requests for a hearing must be in writing and received by the Department of Public Safety by 5:00 p.m. on March 25, 2013. The public hearing will be held at the Administrative Law Court, 1205 Pendleton Street, Brown Building, Second Floor, Columbia, South Carolina 29201. Please submit comments and hearing requests to Ms. Rachel Erwin, South Carolina Department of Public Safety, P. O. Box 1993, Blythewood, S.C. 29016.

Preliminary Fiscal Impact Statement:

The Department anticipates no fiscal impact as a result of these regulations.

Statement of Need and Reasonableness:

The statement of need and reasonableness of the regulation was determined based on staff analysis pursuant to S. C. Code Ann. Sections 1-23-115 (C) (1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION:

Purpose: To enhance the Department's administration of the Highway Patrol's Wrecker Rotation List.

Legal Authority: Sections 23-6-20 and 23-6-400 et seq. allow the Department of Public Safety to promulgate regulations on this matter.

Plan for Implementation: The proposed amended regulation will be administered in the same manner as the existing regulation and will take effect upon approval by the General Assembly and publication in the State Register.

16 PROPOSED REGULATIONS

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

The proposed amendments to regulation 38-600 are needed and are beneficial to the public because the new regulations will enhance the requirements for being on the wrecker rotation list, to include selection criteria for driving record and criminal record checks for wrecker services applying to be on the wrecker rotation list. These new criteria will enhance the quality of the wrecker services on the wrecker rotation list providing services to the general public at the request of the Department of Public Safety.

DETERMINATION OF COSTS AND BENEFITS:

The Department anticipates the cost related to the proposed changes will be minimal but that the general public will benefit from the enhanced requirements.

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 changes will update existing regulations to enhance the administration of the Department's Wrecker Rotation List by clarifying duties of wrecker services regarding signage at wrecker locations, adding a requirement for background checks for drivers and owners, adding automatic disqualifiers for certain convictions for drivers and owners, adding a requirement for companies to accept credit cards for Department tows, adding training requirements for operators of Class C (heavy duty) wreckers, and adding a requirement for wrecker services to authorize the Department to contact insurance companies to verify insurance. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

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

Filed: January 23, 2013 12:02pm

Document No. 4339
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-67-108 (Supp. 2012), and
 59-67-160 (Supp. 2012)

43-80.1. Bus Driver Qualifications

Emergency Situation:

There is a threat of a labor strike of Durham School Service employees in school districts that contract with that company for pupil transportation services. If there is a strike, there will be an immediate need for replacement bus drivers to be brought in to operate the school buses so as to not disrupt school. State Board of Education Regulation 43-80 sets forth the certification process for bus drivers. Due to the timing and uncertainty of the strike, there will not be enough time to certify an adequate number of new bus drivers in those areas affected without causing the cancellation of school days. The training program, which is developed by the SCDE upon the mandate of the State Board of Education, requires 20 hours of classroom instruction and ten hours of behind-the-wheel instruction, among other requirements. There is a potential of an immediate need of over 250 drivers. This emergency regulation will allow licensed school bus drivers from other states to drive school buses in South Carolina during this crisis.

Text:

43-80.1. Bus Driver Qualifications.

To address the potential shortage of school bus drivers in school districts under contract with Durham School Services, the State Board of Education issues this emergency regulation to allow individuals who meet the requirements, as set forth below, to operate school buses without having a South Carolina Department of Education Bus Driver Certificate. This is a limited exception to the South Carolina Department of Education Bus Driver Certificate requirement and is only available for bus drivers who are replacing striking Durham School Services drivers in those school districts that contract with Durham School Services. This regulation will only be valid for 90 days. After the 90-day effective dates, only those drivers who have a South Carolina Department of Education Bus Driver Certificate will be legally authorized to drive a school bus in this state.

The driver must meet the following requirements:

1. Be properly licensed as a school bus driver from another state.
2. Possess a valid commercial driver's license with the appropriate Endorsements required by state and federal law to operate a school bus-type vehicle to qualify for issuance:

Classification: A or B

Endorsement: P and S.

3. Possess a current medical card.
4. Present a recent copy of DMV driving record from resident state.
5. Present a recent criminal background check from the state of residence.
6. Provide proof of participation in a random drug/alcohol testing program.
7. Have a minimum of five years driving experience with two years' experience as a school bus driver.

18 EMERGENCY REGULATIONS

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: This regulation will address the potential shortage of school bus drivers in school districts under contract with Durham School Services; the State Board of Education issues this emergency regulation to allow individuals who meet the requirements, as set forth in the regulation, to operate school buses without having a South Carolina Department of Education Bus Driver Certificate. This is a limited exception to the South Carolina Department of Education Bus Driver Certificate requirement and is only available for bus drivers who are replacing striking Durham School Services drivers in those school districts that contract with Durham School Services. This regulation will only be valid for 90 days. After 90 days, only those drivers who have a South Carolina Department of Education Bus Driver Certificate will be legally authorized to drive a school bus in this state.

Purpose: The purpose of this regulation is to allow a temporary alternative to a school bus driver being required to have a South Carolina Department of Education Bus Driver Certificate in the event school bus drivers go on strike and South Carolina Department of Education Bus Driver Endorsed drivers are not available to replace those drivers. The intent is to prevent the closing of schools during a school bus driver strike.

Legal Authority: 1976 Code Sections 59-5-60 (2004), 59-67-108 (Supp. 2012), and 59-67-160 (Supp. 2012).

Plans for Implementation: The regulation will go into effect upon filing and it will be communicated to the school districts that may be affected by the potential labor strike.

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

There is a need to supply school bus drivers to areas affected by the labor strikes, if such strikes occur. This regulation will allow licensed school bus drivers from other states drive school buses for those school districts affected.

DETERMINATION OF COSTS AND BENEFITS:

There will be no additional costs to the state or school districts in implementing this regulation.

UNCERTAINTIES OF ESTIMATES:

Not applicable.

EFFECT ON ENVIRONMENTAL AND PUBLIC HEALTH:

The State Board of Education has considered the public health and believes the requirements as set forth in this regulation take into consideration the safety requirements of bus drivers. The requirements exceed the federal requirements.

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

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