SOUTH CAROLINA STATE REGISTER DISCLAIMER

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.

2014 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	1/10	2/14	3/14	4/11	5/9	6/13	7/11	8/8	9/12	10/10	11/14	12/12
Publishing Date	1/24	2/28	3/28	4/25	5/23	6/27	7/25	8/22	9/26	10/24	11/28	12/26

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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The *South Carolina State Register* is available electronically through the South Carolina Legislature Online website at www.scstatehouse.gov, 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 the printed 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.

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South Carolina General Assembly Home Page: http://www.scstatehouse.gov/regnsrch.php

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4350			Law Enforcement Officer and E-911 Officer Training and Certification (Renumber and Reorganize)	5/13/15	South Carolina Criminal Justice Academy
4345			Adjudication of Misconduct Allegations (Reporting of Misconduct by Law Enforcement Officers)	5/13/15	South Carolina Criminal Justice Academy
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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.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4350	Law Enforcement Officer and E-911 Officer Training and Certification (Renumber and Reorganize)	Judiciary	Judiciary
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4468	Hypodermic Devices; and Drugs and Devices		

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 October 24, 2014 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 Vonja Szatkowski, Certificate of Need Program, 2600 Bull Street, Colu0mbia, SC 29201 at (803) 545-4200.

Affecting Aiken County

Renovation of existing facility and addition of fourteen (14) medical/surgical beds for a total of 197 licensed acute care beds.
Aiken Regional Medical Centers
Aiken, South Carolina
Project Cost: $782,534

Affecting Anderson County

Purchase a daVinci Robotic Surgery System for use in an existing operating room.
AnMed Health (AnMed Health Medical Center)
Anderson, South Carolina
Project Cost: $2,502,860

Construction and renovation for the development of a new hybrid operating room that will allow for the integration of diagnostic imaging equipment into the operating room suite.
AnMed Health (AnMed Health Medical Center)
Anderson, South Carolina
Project Cost: $8,259,773

Affecting Beaufort County

Renovation of existing facilities for the addition of four (4) ICU beds (no overall increase in hospital bed count).
Beaufort County Memorial Hospital d/b/a Beaufort Memorial Hospital
Beaufort, South Carolina
Project Cost: $5,492,729

Affecting Berkeley County

Development and construction of a new ambulatory surgical facility (ASF) on the future Nexton Health and Wellness Campus with six (6) operating rooms and two (2) endoscopy rooms.
Nexton Surgery Center, LLC
North Charleston, South Carolina
Project Cost: $22,862,134

Affecting Charleston County

Establishment of a new outpatient Narcotic Treatment Program (NTP) in North Charleston, Charleston County, South Carolina to provide methadone treatment for the rehabilitation of persons dependant on opioids.
Crossroads Treatment Center of Charleston, PC
North Charleston, South Carolina
Project cost: $264,396

Affecting Horry County

Establishment of a new outpatient Narcotic Treatment Program (NTP) in Myrtle Beach, Horry County, South Carolina to provide methadone treatment for the rehabilitation of persons dependant on opioids.
Crossroads Treatment Center of Myrtle Beach, PC
Myrtle Beach, South Carolina
Project cost: $411,304

Renovation of the Emergency Department (ED) through a one-story expansion of the existing hospital facility with no change in licensed bed capacity.
McLeod Loris Seacoast Hospital d/b/a McLeod Seacoast
Little River, South Carolina
Project cost: $5,065,234

Affecting Lexington County

Construction of a 9,450 sf building that will house the replacement rehabilitation center at LMC Extended Care and will be attached to the current facility located at 815 Old Cherokee Road with no change in licensed bed capacity.
LexMed, Inc. d/b/a Lexington Medical Center Extended Care
Lexington, South Carolina
Project Cost: $3,300,000

Construction of a new, one-story thirty (30) resident hospice facility.
Carolinas Community Hospice, Inc./Agape Community Hospice
(Agape House of Lexington)
Lexington, South Carolina
Project Cost: $4,144,164

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 October 24, 2014. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Robert B. "Sam" Phillips, Certificate of Need Program, 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 Aiken County

New home health agency (HHA) in Aiken County.
PruittHealthHome Health f/k/a United Home Care, Inc.
Aiken, South Carolina
Project Cost: $97,790

Affecting Charleston County

Replacement and consolidation of MUSC's Pediatric & Perinatal Services through the construction of a new Children's Hospital and Women's Pavilion with no change in bed capacity.
Medical University of South Carolina Children's Hospital & Women's Pavilion
Charleston, South Carolina
Project Cost: $366,397,822

Affecting Greenville County

Construction of an addition to an existing dual diagnosis unit, renovation of an existing quiet activity room, and the addition of six (6) substance abuse beds.
UHS of Greenville, LLC d/b/a Carolina Center for Behavioral Health
Greer, South Carolina
Project Cost: $1,644,204

Construction and renovation for the addition of eight (8) psychiatric beds resulting in a bed capacity of twenty-one (21) substance abuse beds and one hundred twelve (112) psychiatric beds.
UHS of Greenville, LLC d/b/a Carolina Center for Behavioral Health
Greer, South Carolina
Project Cost: $1,826,631

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT TO AIR QUALITY STATE PLAN FOR DESIGNATED FACILITIES AND POLLUTANTS

Statutory Authority: The Clean Air Act, 42 U.S.C. Section 7401 et seq.;
C.F.R. Parts 60.26; S.C. Code Ann. Section 48-1-10 et seq. (2008 & Supp. 2013)

NOTICE IS HEREBY GIVEN, the South Carolina Department of Health and Environmental Control proposes to submit certification to the U.S. Environmental Protection Agency (EPA) that it has met the obligation of Clean Air Act (CAA) sections 111 and 129 for commercial and industrial solid waste incinerator (CISWI) unit plans. 40 CFR 60.

Opportunity for Public Comment:

The South Carolina Department of Health and Environmental Control (Department) is publishing this Notice of Public Hearing to provide interested persons the opportunity to comment on the Department's submittal to the U.S. Environmental Protection Agency (EPA) to meet Clean Air Act (CAA) sections 111 and 129 obligations. On February 7, 2013, the EPA promulgated final rules for commercial and industrial solid waste incinerator (CISWI) units (*Federal Register* [78 FR 9112]) pursuant to the requirements of section 111 and 129 of the CAA. In accordance with section 129 of the CAA, each state in which an existing source is operating is required to submit to the EPA a plan to implement and enforce the emission guidelines within one year from the date of promulgation. Pursuant to 40 CFR 60.23, the Department is hereby giving notice to the public of a public hearing to be held on November 24, 2014, at 10:00 a.m., in the Wallace Room of the Sims Building, 2600 Bull Street, Columbia, South Carolina regarding the submittal of this plan. The public is also invited to submit comments in writing before the public hearing. To be considered, comments must be received by 5:00 p.m. on November 24, 2014, the close of the comment period. Comments should be submitted to Marie Brown, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC

29201. Interested persons may also contact Marie Brown via phone at (803) 898-1796 or email at brownmf@dhec.sc.gov for more information.

Background:

The rules for CISWI units were made final in the February 7, 2013, *Federal Register* [78 FR 9112], and were codified under 40 CFR part 60, NSPS subparts CCCC and DDDD. The rules for new sources (CCCC) are referred to as New Source Performance Standards (NSPS) while rules for existing sources (DDDD) are referred to as Emission Guidelines (EG).

On September 11, 2014, South Carolina Regulation 61-62.60, *South Carolina Designated Facility Plan and New Source Performance Standards (NSPS)*, was amended to incorporate the aforementioned changes to 40 CFR Part 60 Subparts CCCC and DDDD by reference. These amendments establish emission limits and other requirements for CISWI units, and implement and provide for enforcement of the various Emission Guidelines promulgated by the EPA. These amendments were approved during a public hearing conducted by the Board of the South Carolina Department of Health and Environmental Control and were state effective upon publication in the *State Register* on September 26, 2014.

Purpose:

In accordance with section 129 of the CAA, each state in which an existing CISWI unit is operating is required to submit to the EPA a plan to implement and enforce the emission guidelines within one year from the date of promulgation. This plan consists of applicable compliance and enforcement regulations, a list of affected sources, and emissions inventories for these sources. The Department is proposing to certify that it has addressed the requirements of sections 111 and 129 and regulations under 40 CFR Part 60 for CISWI units with the submittal of this plan.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

DHEC-BUREAU OF LAND AND WASTE MANAGEMENT, FILE #403894
F.B. JOHNSTON GRAPHICS SITE

NOTICE OF VOLUNTARY CLEANUP CONTRACT, CONTRIBUTION PROTECTION, AND COMMENT PERIOD

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (DHEC) intends to enter into a Voluntary Cleanup Contract (VCC) with Illinois Tool Works, Inc. (Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the F.B. Johnston Graphics facility located in Lexington County, 300 East Boundary Street, Chapin, South Carolina, and any surrounding area impacted by the migration of hazardous substances, pollutants, or contaminants from the facility property (Site).

Future response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and performing: additional assessment activities to further delineate the source, nature, and extent of the release or threat of release of hazardous substances, pollutants, or contaminants and, if necessary, conduct a Feasibility Study to evaluate alternatives to clean-up the Site. Further, the Responsible Party will reimburse the Department's past costs of response of $2,736.29 and the Department's future costs of overseeing the work performed by the Responsible Party and other Department costs of response pursuant to the VCC.

The VCC is subject to a thirty-day public comment period consistent with the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9613, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (as amended). Notice of Contribution Protection and Comment Period will be provided to known potentially responsible parties via email or US mail. The VCC is available:

(1) On-line www.scdhec.gov/Apps/Environment/PublicNotices/SearchAndDisplay/Display/765; or
(2) By contacting David Wilkie at 803-898-0882 or wilkietd@dhec.sc.gov.

Any comments to the proposed VCC must be submitted in writing, postmarked no later than November 24, 2014, and addressed to David Wilkie, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, the Responsible Party will receive a covenant not to sue for the work done in completing the response actions specifically covered in the Contract and completed in accordance with the approved work plans and reports. Upon execution of the VCC, the Responsible Party shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. 9613(f)(2) and 9613(f)(3)(B), and under S.C. Code Ann. Section 44-56-200, for the response actions specifically covered in the Contract including the approved work plans and reports. Contribution protection is contingent upon the Department's determination that the Responsible Party has successfully and completely complied with the VCC.

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 November 24, 2014 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 company has applied for certification as Underground Storage Tank Site Rehabilitation Contractor:

Class I

Partner Engineering & Science, Inc.
Attn: Kristine McCarthy-MacWilliams
8000 Corporate Center Drive, Suite 104
Charlotte, NC 28226

DEPARTMENT OF LABOR, LICENSING AND REGULATION

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation intends to adopt the latest edition of the following nationally recognized code as set forth herein below:

1. Safety Standards for Elevators and Escalators, (ASME) A17.1-2013/CSA B44-13, 2013 edition. This latest version of the code was originally published on October 21, 2013 and became effective on April 21, 2014, with the exceptions of Requirements 8.10.1.1.3 and 8.11.1.1, which became effective immediately.

Since publication in October of 2013, the following revisions and editorial changes were made. The Department intends to incorporate these changes as stated:

Page	Location	Change
vii-xii	ASME Foreword	Revised
xxi-xxii	ASME Preface	Revised
xxiv	CSA Preface	Revised
1	1.1.1	In subpara. (c), last sentence revised
2	1.1.4	Revised
	1.2.2	Title editorially revised
2, 5, 6-8, 10, 13-18	Section 1.3	(1) Definition of *accredited certifying organization; accrediting body; base, building; control, mechanical-hydraulic; conveyor, vertical reciprocating (VRC); driving machine, traction climbing; elevator, outside emergency; elevator discharge level; elevator, wind turbine tower; guide rope fixes; guiding means, ladder; hard, copy; maintenance control program (MCP); maintenance interval; maintenance procedure; maintenance task; Occupant Evacuation Operation; operation,*

automatic call; operation, automatic send; pallet band; platform, landing; records, electronic; seal, adjustment; SIL rated; step band; sway control guide, sway control guide suspension means; tail line; and travel path added.

2. The original promulgating authority for this code is:
The American Society of Mechanical Engineers (ASME)
2 Law Drive/Box 2300
Fairfield, New Jersey 07007-2300

3. This code is referenced by:
South Carolina Code of Laws, Sections 41-16-10 et seq., and specifically in South Carolina Code of Laws, Section 41-16-40(2).
Elevator Safety Regulations 71-5100(1.).

The Department of Labor, Licensing and Regulation specifically requests comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Duane Scott by mail at 110 Centerview Drive, Columbia, SC 29210, by fax at 803-896-7650, or by email to duane.scott@llr.sc.gov.

If no comments are received within sixty (60) days of publication of this notice, the Department of Labor, Licensing and Regulation will promulgate this latest edition as stated without amendment.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 6-9-40 of the 1976 Code of Laws of South Carolina, as amended, the South Carolina Building Codes Council intends to adopt the following building codes for use in the State of South Carolina.

Mandatory codes include the:
2015 Edition of the International Building Code;
2015 Edition of the International Residential Code;
2015 Edition of the International Fire Code;
2015 Edition of the International Plumbing Code;
2015 Edition of the International Mechanical Code;
2015 Edition of the International Fuel Gas Code;
2014 Edition of the National Electrical Code.

Permissive codes include the:
2015 Edition of the International Property Maintenance Code;
2015 Edition of the International Existing Building Code;
2015 Edition of the International Swimming Pool and Spa Code
2015 Edition of the International Performance Code for Buildings and Facilities.

The Council specifically requests comments concerning sections of the proposed editions, which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Roger K. Lowe, Council Administrator, at PO Box 11329, Columbia, SC 29211-1329, on or before April 1, 2015.

STATE BOARD OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE DIVISION
CHAPTER 15
Statutory Authority: 1976 Code Sections 37-22-110 et seq.,
particularly Section 37-22-260

Notice of Drafting:

The South Carolina State Board of Financial Institutions/Consumer Finance Division proposes to amend Regulation 15-64 addressing licensing of non-depository Mortgage Lenders/Servicers, Branch Offices and Loan Originators. Interested parties are invited to present their views in writing to Jim Copeland, Acting Commissioner, South Carolina State Board of Financial Institutions/Consumer Finance Division, 1205 Pendleton Street, Suite 306, Columbia, SC 29201. To be considered, comments must be received no later than 5 p.m. November 28, 2014, the close of the drafting comment period.

Synopsis:

The "South Carolina Mortgage Lending Act" (Act) was passed into law June 3, 2009 and became effective January 1, 2010 to be in compliance with the federal "Secure and Fair Enforcement for Mortgage Licensing Act of 2008" (SAFE Act). The Consumer Financial Protection Bureau (CFPB) recently promulgated rules pertaining to the SAFE Act (24 CFR Parts 30 and 3400). This regulation is being amended to comply with the new CFPB rules. Further, state-specific items will be clarified, deleted or modified to meet the new statutory language and authority, including license and record-keeping requirements.

This regulation will require legislative review.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-1-140

Notice of Drafting:

The Department is proposing to repeal R.61-28, *Horse Meat and Kangaroo Meat;* R.61-38, *Fairs, Camp Meetings, and Other Gatherings;* 61-39, *Camps;* and R.61-40, *Mobile/Manufactured Home Parks;* R.61-42, *Sanitation of Schools;* and R.61-46, *Nuisances*. This Notice of Drafting of October 24, 2014, supersedes and replaces the Notice of Drafting published in the *South Carolina State Register* on November 22, 2013, and is being published to extend the one year deadline for filing a regulation with the Legislative Council for submission to the General Assembly for review pursuant to S.C. Code Section 1-23-120.A Interested persons may submit written comments to Ms. Sandra D. Craig, Director, Division of Food Protection and Rabies Prevention, Bureau of Environmental Health Services, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29202, or by email at craigsd@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on November 24, 2014, the close of the drafting comment period. Comments received from the previous Notice of Drafting, as well as from this current noticing of October 24, 2014, will be considered.

Synopsis:

The Department has conducted its five-year review of its environmental health regulations and has brought forth a listing of out-of-date regulations. In the interest of good government and efficiency, the Department proposes repeal of the regulations listed below because they have become obsolete and are no longer needed:

R.61-28, *Horse Meat and Kangaroo Meat*

R.61-28 was promulgated in 1967 and has never been amended. State statutes and R.61-25, *Retail Food Establishments*, address the requirements and the regulation is therefore unnecessary.

R.61-38, *Fairs, Camp Meetings, and Other Gatherings*

R.61-38, *Fairs, Camp Meetings, and Other Gatherings*, was promulgated in 1944 and has never been amended. State statutes and regulations to include R.61-9, *Water Pollution Control Permits*, R.61-25, *Retail Food Establishments*, R.61-56, *Onsite Wastewater Systems*, and R.61-58, *State Primary Drinking Water Regulations*, address the major requirements and the regulation is therefore unnecessary.

R.61-39, *Camps*

R.61-39, *Camps*, was promulgated in 1995 and has never been amended. State statutes and regulations to include R.61-9, *Water Pollution Control Permits;* R.61-25, *Retail Food Establishments;* R.61-51, *Public Swimming Pools;* R.61-56, *Onsite Wastewater Systems;* and R.61-58, *State Primary Drinking Water Regulations*, address the requirements, and the regulation is therefore unnecessary.

R.61-40, *Mobile/Manufactured Home Parks*

R.61-40, *Mobile/Manufactured Home Parks*, was promulgated in 1986 and has never been amended. State statutes and regulations to include R.61-9, *Water Pollution Control Permits*, R.61-56, *Onsite Wastewater Systems*, and R.61-58, *State Primary Drinking Water Regulation*, address the major requirements and the regulation is therefore unnecessary.

R.61-42, *Sanitation of Schools*

R.61-42, *Sanitation of Schools*, was promulgated in 1989 and has never been amended. State statutes and regulations to include R.61-9, *Water Pollution Control Permits*, R.61-25, *Retail Food Establishments*, R.61-51, *Public Swimming Pools*, R.61-56, *Onsite Wastewater Systems*, R.61-58, *State Primary Drinking Water Regulation*, and R.61-86, *Standards of Performance for Asbestos Projects*, address the major requirements and the regulation is therefore unnecessary.

R.61-46, *Nuisances*

R.61-46, *Nuisances*, was promulgated in 1972 and has never been amended. State statutes to include Code Sections 44-1-140 and Title 48, *Environmental Protection and Conservation, Chapter 1, Pollution Control Act*, and regulations to include R.61-9, *Water Pollution Control Permits*, and R.61-56, *Onsite Wastewater Systems*, address the major requirements and the regulation is therefore unnecessary.

Legislative review of these repeals will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 40-33-30, 44-1-140, 44-37-40, 44-37-50, and 44-89-10

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation 61-24, *Licensed Midwives*. Interested persons may submit written comments to Gwen C. Thompson, Bureau Chief, Bureau of Health Facilities Licensing, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201 or via email at thompsgw@dhec.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. November 24, 2014, the close of the comment period.

Synopsis:

The Department of Health and Environmental Control proposes to amend Regulation 61-24. This amendment pertains to provisions relating to licensing requirements, interpretations, educational requirements, license revocation criteria, prenatal care, intrapartum care, postpartum care, care of the newborn, referral to a physician and record keeping and reporting. The Department also intends to add language to incorporate current provider wide exceptions, and memoranda that are applicable to licensed midwives.

The Department may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

Legislative review will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-7-260 and 44-89-10

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation 61-102, *Standards for Licensing Birthing Centers for Deliveries by Midwives*. Interested persons may submit written comments to Gwen C. Thompson, Bureau Chief, Bureau of Health Facilities Licensing, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201 or via email at thompsgw@dhec.sc.gov. To be considered, all comments must be received no later than 5:00 p.m. November 24, 2014, the close of the comment period.

Synopsis:

The Department of Health and Environmental Control proposes to amend Regulation 61-102. This amendment pertains to provisions relating to licensing procedures, interpretations, governing authority and management, admission and intake, professional care, functional safety, infection control and sanitation, dietary services, design and construction, fire protection and prevention, mechanical requirements, and overall requirements for licensure. The Department also intends to add language to incorporate current provider wide exceptions, memoranda and governing statutory authority that are applicable to birthing centers for deliveries by midwives.

The Department may also include stylistic changes, which may include corrections for clarity and readability, grammar, punctuation, definitions, references, codification and overall improvement of the text of the regulation.

Legislative review will be required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 131
Statutory Authority: 1976 Code Sections 6-9-55, 40-1-50, and 40-1-70

Notice of Drafting:

The South Carolina Building Codes Council proposes to amend Regulations 8-145 and 8-618 to update the schedule of fees approved by the General Assembly during the 2013-2014 legislative session. Interested persons may submit comments to the administrator, Roger K. Lowe, Building Codes Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation, in conformance with South Carolina Code Ann. §40-1-50 and with authority delegated by the Building Codes Council, proposes to update the schedule of fees appearing in the Council's regulations. During the 2013-2014 legislative session, the Department promulgated regulations in the newly-created Chapter 10 to provide a central location for the schedules of fees for all boards and commissions that voted to be included in the chapter. The South Carolina Building Codes voted to have their fee schedules included in Chapter 10 and to have their fee schedules remain in Regulation 6. The Council now seeks to update the existing schedule of fees to reflect the amounts approved by the General Assembly during the 2013-2014 legislative session.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL
CHAPTER 71
Statutory Authority: 1976 Code Sections 23-9-60, 23-9-550, 23-35-45, and 23-36-80

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation, Office of State Fire Marshal proposes to repeal and/or amend Regulations 71-8300 through 71-8306. Interested persons may submit comments to: Robert Polk, State Fire Marshal, S.C. Department of Labor, Licensing and Regulation, Office of State Fire Marshal, 141 Monticello Trail, Columbia, South Carolina 29203. The State Fire Marshal specifically requests comments concerning appropriate regulations as they pertain to fire prevention and life safety as well as appropriate use of national consensus standards, with or without state specific modifications.

Synopsis:

The Office of State Fire Marshal proposes to eliminate redundant and unnecessary regulations; update the remaining existing regulations; use a standardized format for all regulations; and to make the current regulations compatible with current federal and state statutes.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS IN OPTICIANRY
CHAPTER 96
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-38-60, and 40-38-250

Notice of Drafting:

The South Carolina Board of Examiners in Opticianry proposes to amend its regulations to clarify that apprenticeship is a training period and not a subclass of practice. Interested persons may submit comments to Angie Combs, Administrator, State Board of Examiners in Opticianry, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Board of Examiners in Opticianry proposes to amend its regulations regarding apprenticeship. Legislative review of this amendment is required.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
COMMISSIONERS OF PILOTAGE
CHAPTER 136
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 54-15-10, and 54-15-140

Notice of Drafting:

The South Carolina Commissioners of Pilotage propose to amend Regulations 136-014(A), 136-016(A) and 136-030(D) for the Lower Coastal Area and amend Regulations 136-714(A), 136-716(A), and 136-730(B) for the Upper Coastal Area. Interested persons may submit comments to Kate Cox, Administrator, South Carolina Commissioners of Pilotage, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, SC 29211-1329.

Synopsis:

In Article 1, pertaining to the Lower Coastal Area, The South Carolina Commissioners of Pilotage will: remove reference to 46 CFR 10.201 – 10.223 regarding apprentice citizenship and physical requirements in Regulation 136-014(A); and remove reference to 46 CFR 10.709 regarding pilot registration in Regulation 136-030(D). Both sections will be amended to partially adopt new citation, 46 CFR 11.709 with certain exceptions. The Commissioners will also remove reference to 46 CFR 10.307 regarding apprentice training course curriculum in Regulation 136-016(A) and amend the same to cite 46 CFR 11.480 and additional training language.

In Article 2, pertaining to the Upper Coastal Area, The South Carolina Commissioners of Pilotage will: remove reference to 46 CFR 10.201 – 10.223 regarding apprentice citizenship and physical requirements in Regulation 136-714(A); and remove reference to 46 CFR 10.709 regarding pilot registration in Regulation 136-730(B). Both sections will be amended to partially adopt 46 CFR 11.709 with certain exceptions. The Commissioners will also remove reference to 46 CFR 10.307 regarding apprentice training course curriculum in Regulation 136-716(A) and amend the same to cite 46 CFR 11.480 and additional training language.

DEPARTMENT OF LABOR, LICENSING AND REGULATION
REAL ESTATE COMMISSION
CHAPTER 10
Statutory Authority: 1976 Code Section 40-1-50, 40-1-70, 40-57-60, and 40-57-70

Notice of Drafting:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 10-37 to correct a scrivener's error. Interested persons may submit comments to Holly Pisarik, Director, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, S.C. 29211-1329.

Synopsis:

The South Carolina Department of Labor, Licensing and Regulation proposes to add the fees from Regulation 105-12 to Regulation 10-37 to correct a scrivener's error. Specifically, the fees from Regulation 105-12 should be added to Regulation 10-37. They were inadvertently omitted when the fees for all boards and commissions were moved into the newly-created Chapter 10 during the 2013-2014 legislative session.

Document No. 4490
CLEMSON UNIVERSITY
STATE CROP PEST COMMISSION
CHAPTER 27
Statutory Authority: 1976 Code Sections 46-9-40 and 46-9-50

27-50. Regulated Areas
27-55.9. Infested Areas
27-70. Regulated Areas
27-75.7. Addition/deletion of lands from Regulation in South Carolina
27-75.9. Regulated Areas
27-135. Designation of Plant Pests
27-137. Designation of Asian Citrus psyllid as plant pest and quarantine
27-140. [Regulations Promulgated]
27-141. Pests

Preamble:

The State Crop Pest Commission proposes to add and update language to clarifying plant pests in South Carolina, as well as the process for annual evaluation of plant pests and quarantine areas, as well as establishing an official listing of plant pests and quarantine areas on the Clemson University website.

Section-by-Section Discussion

27-50. Regulated Areas
Delete current text and replace with language explaining that the quarantine areas will be reviewed annually and posted on Clemson website.

27-55.9. Infested Areas
Delete current text and replace with language explaining that the quarantine areas will be reviewed annually and posted on Clemson website.

27-70. Regulated Areas
Delete current text and replace with language explaining that the quarantine areas will be reviewed annually and posted on Clemson website.

27-75.7. Addition/deletion of lands from Regulation in South Carolina
Delete current text and replace with language explaining that the quarantine areas will be reviewed annually and posted on Clemson website.

27-75.9. Regulated Areas
Delete current text and replace with language explaining that the quarantine areas will be reviewed annually and posted on Clemson website.

27-135. Designation of Plant Pests
Correct heading from Article 10 to reflect “Designation of Plant Pests” rather than “Seed Irish Potatoes.”
Delete current language in section 2 listing of designated plant pests and replace with language explaining that the official listing of plant pests will be reviewed annually and posted on Clemson website. Further explain that a committee will annually review this official listing, and set forth the review committee make up.

27-137. Designation of Asian Citrus psyllid as plant pest and quarantine
Correct the heading to add this as Article 10a Asian Citrus Psyllid.

27-140. [Regulations Promulgated.]
Correct the heading to add Article 10b Seed Irish Potatoes. Also, change the description to explain that these regulations pertain to Seed Irish Potatoes and that the official listing of Seed Irish Potato pests will be reviewed annually and posted on Clemson website.

27-141. Pests
Delete this section and replace with language explaining that the official listing of plant pests will be on the Clemson website.

A Notice of Drafting regarding the subject matter of the proposed regulation was published in the *State Register* on March 28, 2014.

Notice of Public Hearing and Opportunity for Public Comment:

All written comments and requests for a public hearing should be sent to Dr. Stephen E. Cole, Director, Regulatory Services, Clemson University, 511 Westinghouse Road, Pendleton, SC 29670 no later than November 25, 2014. There will be a hearing on December 1, 2014, unless no requests are made by November 25, 2014, at which time the hearing on December 1, 2014 will be cancelled.

Preliminary Fiscal Impact Statement:

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

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The proposed amendments will simplify update of the South Carolina plant pest list and plant quarantines by placing them on the Clemson University website, as well as direct the public to the site to afford easier public access to these items.

Legal Authority: S.C. Code Ann. Sections 46-9-40 and 46-9-50.

Plan for Implementation: The Plant Pest List and Plant Quarantines will be placed on the Clemson University website, www.clemson.edu/invasives, by October 31, 2015 and will be reviewed and updated on an annual basis.

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

The proposed regulation changes will increase efficiency and accuracy for both the general public and Clemson officials by listing the most current, up to date plant pest list on Clemson's website, rather than only within the regulations. This is needed because the plant pest list and corresponding plant pest quarantine areas in South Carolina can change in any given year.

DETERMINATION OF COSTS AND BENEFITS:

No increases in costs are expected.

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:

New plant pests may arrive at any time, necessitating the implementation of a plant pest quarantine. Likewise, new plant pests and invasive plant species may be detected at any time, or may be so designated by USDA APHIS PPQ. In either case, the South Carolina state plant pest list would need to be updated in a timely manner to reflect the current plant pest status. Posting the plant pest list and plant quarantines on the Clemson University website, would allow for immediate updates and greater ease for the public to access this information, as well as creating an official review committee providing annual review of the plant pest listing.

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. 4488
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory authority: 1976 Code Sections 47-4-30 and 47-17-130

27-1023. State Meat Inspection Regulation

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S. C. Code, Title 47, Chapter 4, the inspection of meat and meat food products produced for intrastate commerce. These updated regulations are necessary to comply with the Federal Meat Inspection Act (21 USCA 661, Section 301) which established Federal-State Cooperative Meat Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations “at least equal to” those adopted by the federal government. This regulation will, in effect, adopt the current Federal Meat Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 22, 2014.

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 held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on December 2, 2014 at 9:00 a.m. If no request is received by December 1, 2014 the hearing will be canceled. Written comments may be directed to Dr. Clyde B. Hoskins, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than December 1, 2014.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Meat Inspection Regulation.

Purpose: To modernize, clarify and update the existing regulations which govern the inspection of meat products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Meat Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Sections 47-4-30 and 47-17-130.

Plan for Implementation: The state meat inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

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

None.

DETERMINATION OF COSTS AND BENEFITS:

None.

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:

None.

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. 4489
CLEMSON UNIVERSITY
STATE LIVESTOCK-POULTRY HEALTH COMMISSION
CHAPTER 27
Statutory Authority: 1976 Code Sections 47-4-30, 47-19-30, and 47-19-170

27-1022. State Poultry Products Inspection Regulation

Preamble:

These regulations are being promulgated to modernize, clarify and update existing regulations which govern, to the extent authorized by S.C. Code, Title 47, Chapter 4, the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act (21 USCA 454, Section 5) which establishes Federal-State Cooperative Poultry Inspection Programs. This is a grant program with equal federal-state funding. A cooperating state is required to adopt regulations "at least equal to" those adopted by the federal government. This regulation will, in effect, adopt the current Federal Poultry Products Inspection Regulations with some minor exceptions for some state specific requirements.

The Notice of Drafting was published in the *State Register* on August 22, 2014.

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 held at the South Carolina Meat-Poultry Inspection Department, 500 Clemson Road, Columbia, S.C. on December 2, 2014 at 9:00 a.m. If no request is received by December 1, 2014 the hearing will be canceled. Written comments may be directed to Dr. Clyde B. Hoskins, Director, South Carolina Meat-Poultry Inspection Department, P. O. Box 102406, Columbia, SC 29224-2406 not later than December 1, 2014.

Preliminary Fiscal Impact Statement:

No additional state funding is requested.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: State Poultry Products Inspection Regulation.

Purpose: To modernize, clarify and update the existing regulations which govern the inspection of poultry products produced for intrastate commerce. These updated regulations are necessary to comply with the federal Poultry Products Inspection Act, which establishes the Federal-State Cooperative Inspection Program. This cooperative agreement requires that state regulations be "at least equal to" applicable federal regulations, in return for which the federal government furnishes 50% of the funds required to maintain the state program. These regulations will allow the state program to maintain compliance with the terms of the federal cooperative agreement.

Legal Authority: 1976 Code Sections 47-4-30, 47-19-30 and 47-19-170.

Plan for Implementation: The state poultry inspection program has been in existence for many years, implementation of these proposed regulations will clarify and update the existing regulations.

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

None.

DETERMINATION OF COSTS AND BENEFITS:

None.

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:

None.

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. 4491
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 59-5-60(1), (3), and (6) (2004), 59-39-100 (Supp. 2012), and 20 U.S.C. 6301 et seq. (2002)

43-259. Adult Education

Preamble:

The State Board of Education is responsible for the administration, coordination, and management of adult basic and adult secondary (high school equivalency diploma and high school diploma) education for the purpose of facilitating and coordinating adult basic and adult secondary (high school equivalency diploma and high school diploma) education programs for South Carolina adults whose level of educational attainment is below high school, as prescribed by state and federal laws and regulations.

Notice of Drafting for the proposed amended regulation was published in the *State Register* on August 22, 2014.

Section-by-Section Discussion

Section II(A)(1)	Delete the following language "and pass the exit examination."
Section II(A)(4)	Delete the last sentence in this Section with the following language "A student who enters an adult education program needing only to pass one or more subtests of the state exit examination must attend a minimum of 12 hours in classroom attendance prior to taking the state exit exam."

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 10, 2014, at 1:00 p.m. in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed repeal will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link: http://ed.sc.gov/agency/stateboard/documents/RegReviewedbySBE14-15.pdf.

Written comments or requests for information should be submitted to the Office of Adult Education, Attn: David Stout, 1429 Senate Street, Suite 908, Columbia, SC 29201, or by e-mail to dstout@ed.sc.gov on or before 5:00 p.m. on November 24, 2014.

Preliminary Fiscal Impact Statement:

It is estimated that there will be no fiscal impact.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-259. Adult Education.

Purpose: These regulations provide guidance to school districts and other eligible adult education providers.

Legal Authority: 1976 Code Sections 59-5-60(1), (3), and (6) (2004), 59-39-100 (Supp. 2012), and 20 U.S.C. 6301 et seq. (2002).

Plan for Implementation: The proposed amendments would be incorporated within R 43-259 upon publication in the *State Register* as a final regulation. The proposed amendments will be implemented in the same manner in which the existing regulation is implemented.

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

None.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

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

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulations have no effect on the environment or on public health. There will be no detrimental effect on the environment or public health if the regulations are not implemented.

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

None.

Statement of Rationale:

The proposed changes are needed in order to remove all references to the high school exit examination or the state exit examination as a requirement for graduation.

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. 4492
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-26-10 et seq. (2004 and Supp.2013), and 20 U.S.C. 6301 et seq. (2001)

43-57.5. Military Service

Preamble:

State Board of Education Regulation 43-57.5 governs the requirements for granting educator experience credit for military service. Amendments to Regulation 43-57.5 will (1) align the number of years of educator experience that can be granted for military service with the number of years of military experience credit allowable by the South Carolina Retirement System and (2) will remove the requirement that the educator certificate must have been valid before or during the time of military experience.

Notice of Drafting for the proposed amendments to the regulation was published in the *State Register* on August 22, 2014.

Section-by-Section Discussion

Amendments to this regulation include increasing the maximum experience credit from five to six years; adding text to indicate that educator experience credit may be awarded for military experience completed before, during, or after the educator certificate is earned; removing the requirement that military service eligible for educator experience credit must take place after certificate is earned; and adding the requirement that military experience be documented using Department of Defense form DD 214 in alignment with office norms.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 10, 2014, at 1:00 pm in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendment will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link http://ed.sc.gov/agency/stateboard/documents/RegReviewedbySBE14-15.pdf.

Written comments should be submitted to Dr. Cindy Van Buren, Deputy Superintendent, Division of School Effectiveness, 1429 Senate Street, Room 606, Columbia, South Carolina 29201 or by e-mail to cvburen@ed.sc.gov on or before 5:00 pm on November 24, 2014.

Preliminary Fiscal Impact Statement:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-57.5. Military Service.

Purpose: Regulation 43-57.5, Military Service, is being amended.

Legal Authority: 1976 Code Sections 59-5-60 (2004), 59-26-10 et seq. (2004 and Supp.2013), and 20 U.S.C. 6301 et seq. (2001).

Plan for Implementation: The proposed amendments will be posted on the South Carolina Department of Education's Web site for review and comment. The amendments 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 amendments to this regulation are needed to align the number of years of educator experience credit for military service with that allowable by the South Carolina Retirement System and to remove the requirement that the educator license must be earned prior to military service as documented by the Department of Defense. The purpose of these amendments is to encourage individuals with military experience to pursue teacher certification in South Carolina and to recognize that their military service contributes greatly to their work with students.

DETERMINATION OF COSTS AND BENEFITS:

None.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation does not have any effect on the environment or public health.

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

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

Statement of Rationale:

The amendments to this regulation will encourage individuals with military experience to pursue teacher certification in South Carolina and to recognize that their military service contributes greatly to their work with students.

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 4493
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-5-65 (2004 and Supp. 2013), 59-10-310 et seq. (Supp. 2013), 42 U.S.C. 1758(f), 7 C.F.R. 210.10, and 7 C.F.R. 220.8

43-168. Nutritional Standards for Elementary Schools (K-5) School Food Service Meals and Competitive Foods

Preamble:

The State Board of Education proposes to amend R.43-168 in response to new federal nutrition regulations affecting all schools participating in the National School Lunch Program and its related initiatives. The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) and the subsequent promulgation of the "Nutrition Standards for All Foods Sold in School" Interim Final Rule ("Smart Snacks" IFR) redefined nutrition standards for all food and beverages sold on school campuses during the school day.

The Smart Snacks IFR and the proposed amendments contained herein do not affect food and beverages: provided for personal consumption and/or emergency medical situations; donated for classroom/school celebrations; associated with after-school activities; or sold via fundraisers in which the products are clearly not for on-site consumption.

In addition, the Smart Snacks IFR allows the State Board of Education (State Board) limited discretion in establishing a policy regarding the allowance of a limited number of exempt fundraisers during the school day that do not meet the nutrition standards contained in the Smart Snacks IFR, to the extent that such exempt fundraisers do not reach a level that impairs the overall effectiveness of the Smart Snacks IFR. The scope of any such policy can only include infrequent fundraisers, not vending machines, school stores, or other similar ongoing enterprises. Absent a state regulation, the Smart Snacks IFR prohibits any exempt fundraisers, as well as any local control over their availability.

The proposed amendments to the regulation remove contradictions in existing state K-5 competitive foods standards, as well as establish standards to allow up to thirty (30) Smart Snacks IFR-exempt fundraisers per school annually, at local discretion.

The proposed regulation will not require legislative review.

Notice of Drafting for the proposed amendments was published in the *State Register* on August 22, 2014.

Section-by-Section Discussion

Section II(A)	Adds clarifying language regarding new federal standards for competitive foods and the ability of school districts or individual schools to establish additional standards.
Section II(A)(1-3)	Deletes contradictory language regarding allowable foods.
Section II(B)(1-3)	Deletes contradictory language regarding allowable beverages.

Section III	Adds new wording regarding the allowance of Smart Snacks IFR-exempt fundraisers

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 10, 2014 at 1:00 p.m. in the Rutledge Conference Center, Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201. The proposed amendments will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link http://ed.sc.gov/agency/stateboard/documents/RegReviewedbySBE14-15.pdf.

Written comments should be submitted to the Office of Nutrition Programs, Attn: Dr. Juanita Bowens-Seabrook, Rutledge Building, Room 703-C, 1429 Senate Street, Columbia, South Carolina 29201, or jbowens@ed.sc.gov on or before 5:00 p.m. on November 24, 2014.

Preliminary Fiscal Impact Statement:

The proposed amendments to the regulation will have minimal to no fiscal impact on the South Carolina Department of Education (SCDE) as the cost of implementation and monitoring will be absorbed into normal program management activities.

With regard to school districts and individual schools, the fiscal impact of the proposed amendments to the regulation will be neutral to positive, but the amount is not quantifiable at this time. Beyond a minimal recordkeeping requirement, the proposed amendments to the regulation allow (in limited circumstances) greater flexibility in food and beverage selections for exempt fundraisers.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-168. Nutrition Standards for Elementary School s (K–5) School Food Service Meals and Competitive Foods.

Purpose: The proposed amendments to the regulation remove contradictions in existing state K-5 competitive foods standards, as well as establish standards to allow up to thirty (30) Smart Snacks IFR-exempt fundraisers per school annually, at local discretion.

Legal Authority: 1976 Code Sections 59-5-60 (2004), 59-5-65 (2004 and Supp. 2013), 59-10-310 et seq. (Supp. 2013), 42 U.S.C. 1758(f), 7 C.F.R. 210.10, and 7 C.F.R. 220.8

Plan for Implementation: In anticipation of the proposed amendments to the regulation being approved, the South Carolina Department of Education has started creating appropriate training materials, forms, and related recordkeeping instructions for schools to maintain documentation to support compliance with federal and state provisions for exempt fundraisers. Upon the passage of the proposed amendments to the regulation, this information can be easily and quickly transmitted electronically to all affected parties.

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

Based on the limited discretion the Smart Snacks IFR affords the State Board with regard to a state policy, the proposed amendments to the regulation are presented as a reasonable approach that allows local discretion while not undermining the spirit or intent of the Smart Snacks IFR.

DETERMINATION OF COSTS AND BENEFITS:

The proposed amendments to the regulation will result in minimal to no additional costs to the South Carolina Department of Education (SCDE) as implementation and monitoring activities will be absorbed into normal program management activities.

With regard to school districts and individual schools, the net costs of the proposed amendments to the regulation will be neutral to positive, but the amount is not quantifiable at this time. Beyond a minimal recordkeeping requirement, the proposed amendments to the regulation allow (in limited circumstances) greater flexibility in food and beverage selections for exempt fundraisers.

UNCERTAINTIES OF ESTIMATES:

The accuracy of any additional cost-benefit analysis associated with the proposed amendments to the regulation is difficult to measure at present, largely due to the overarching (and yet undetermined) impact of the Smart Snacks IFR on food and beverage sales in school.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed amendments to the regulation have no known environmental impact. With regard to public health, the proposed amendments to the regulation do allow (in limited circumstances) the sale of food and beverages that do not meet federally-recognized nutrition standards.

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

There is no known detrimental effect on the environment if the proposed amendments to the regulation are not implemented. With regard to public health, the absence of the proposed amendments to the regulation would result in no allowable exempt fundraisers, thereby eliminating any sale of food and beverages that do not meet federally-recognized nutrition standards.

Statement of Rationale:

Absent a state policy via the proposed amendments to the regulation, the Smart Snacks IFR prohibits any exempt fundraisers, as well as any local control over their availability. The Smart Snacks IFR also restricts the scope and flexibility of any state policy, as most of the definitions and parameters are already established. Further, the Smart Snacks IFR allows the establishment of a state policy to the extent that the number and duration of exempt fundraisers do not reach a level that impairs the overall effectiveness of the Smart Snacks IFR. In addition, the proposed amendments to the regulation establish allowable times for exempt fundraisers that align to location restrictions contained in the Smart Snacks IFR.

Nationwide, approximately twenty-nine (29) states have opted not to enact a state policy regarding exempt fundraisers, thereby prohibiting all local discretion over their availability. For those that have, most states have adopted a very limited scope as to the number (1–3 per school per school year), duration (1–5 days), and time restrictions (not allowed during breakfast and/or lunch serving times) associated with exempt fundraisers. Six (6) states have allowed 5–10 exempt fundraisers per school per school year with varying durations and time restrictions. Tennessee allows up to thirty (30) exempt fundraisers per school per school year with no specificity as to duration and a prohibition during breakfast and lunch serving times. Georgia allows up to thirty (30) exempt fundraisers per school per school year with a maximum three (3) day duration and a prohibition during breakfast and lunch serving times. In addition, Georgia also allows for additional exempt fundraisers to be considered by the Georgia Department of Education on a case-by-case basis. However, the approval criteria and review process for these additional exempt fundraisers have not yet been established.

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. 4494
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-40-10 et seq. (2004 and Supp. 2013)

43-601. Procedures and Standards for Review of Charter School Applications

Preamble:

State Board of Education Regulation 43-601 governs the procedures and standards for review of charter school applications. The proposed amendments would align Regulation 43-601 to 1) recent changes to the South Carolina Charter Schools Act of 1996 and 2) the guidance and compliance provided to both sponsors and applicants by the South Carolina Department within the *South Carolina Public Charter School Application Guidance*.

Notice of Drafting for the proposed amendments regulation was published in the *State Register* on August 22, 2014.

Section-by-Section Discussion

Section I(I)	Adds language to include Institutions of Higher Learning.
Section I(K)	Adds language to define Alternative Education Campus (AEC).
Section II	New title language to reflect the deletion of the Charter School Advisory Committee.
Section II(A)	Sponsor replaces all Charter School Advisory Committee throughout the document.
Section II(B)	Language added to define charter school application deadline.
Section II(C)	Changes D to C to align with charter school application. Clarifying replaces additional.
Section II(D)	Changes C to D to align with charter school application.
Section III	Adds guidance language.
Section III(A)	Adds executive summary details to align with charter school application.
Section III(B)	Changes A to B. Principles replaces intent. Language eliminated for alignment with the Charter Schools Act of 1996.
Section III(C) (1)	Adds language to align with Charter Schools Act of 1996.
Section III(C)(2)	Changes 4 to 2.
Section III(C)(3)	Changes 5 to 3.
Section III(D)(2)	Sponsor replaces local school board of trustees.
Section III(E)	Title order and language adjusted to align with charter school application.
Section III(E)(2)	Hyphen added.
Section III(F)	Changes E to F.
Section III(G)	Changes F to G.
Section III(G)(4)	Sponsor replaces school district.
Section III(H)	Changes G to H.
Section III(H)(1)	New language added to align with Charter Schools Act of 1996.
Section III(H)(2)	Changes 1 to 2.

Section III(H)(3)	Changes 2 to 3.
Section III(H)(4)	Changes 3 to 4.
	Charter committee replaces board of directors.
Section III(H)(5)	Changes 4 to 5.
Section III(H)(6)	Changes 5 to 6.
Section III(H)(7)	Changes 6 to 7.
Section III(I)	Changes H to I.
Section III(J)	Changes I to J.
Section III(K)	Changes J to K.
Section III(K)(2)	Language deleted to align with Charter Schools Act of 1996.
	Changes 3 to 2.
Section III(K)(3)	Changes 4 to 3.
Section III(L)	Changes K to L.
	Language deleted to align with Charter Schools Act of 1996.
Section III(M)	Changes L to M.
Section III(M)(2)(a)	Language added to provide clarification.
Section III(N)	Changes M to N.
Section III(O)	Changes N to O.
Section III(O) (1)	Language deleted to align with the charter school application.
	Changes 3 to 1.
Section III(O) (2)	Language deleted to align with the charter school application.
	Changes 4 to 2.
Section III(O) (3)	Changes 5 to 3.
Section III(O) (4)	Changes 6 to 4.
Section III(O) (5)	Changes 7 to 5.
Section III(P)	Changes O to P.
Section III(Q)	Changes P to Q.
	Language deleted to align with charter school application.
Section IV(B)	Sponsor replaces advisory committee.
Section V	Sponsor replaces advisory committee and local school board.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 10, 2014, at 1:00 pm in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link http://ed.sc.gov/agency/stateboard/documents/RegReviewedbySBE14-15.pdf.

Written comments should be submitted to Donna Manning, Team Leader, Office of School Transformation, Division of School Effectiveness, 1429 Senate Street, Room 605-B, Columbia, South Carolina 29201 or by e-mail to charterschools@ed.sc.gov on or before 5:00 pm on November 24, 2014.

Preliminary Fiscal Impact Statement:

No additional state funding is requested. The SCDE estimates that no additional costs will be incurred by the state and its political subdivisions in complying with the proposed revisions to Regulation 43-601.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-601. Procedures and Standards for Review of Charter School Applications.

Purpose: Regulation 43-601, Procedures and Standards for Review of Charter School Applications, is being amended.

Legal Authority: 1976 Code Sections 59-5-60 (2004) and 59-40-10 et seq. (2004 and Supp. 2013).

Plan for Implementation: The proposed amendments will be implemented in the same manner in which the existing regulation is implemented. The proposed amendments will be posted on the South Carolina Department of Education's website. The amendments 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:

State Board of Education Regulation 43-601 governs the procedures and standards for review of charter school applications. The proposed amendments would align Regulation 43-601 to 1) recent changes to the South Carolina Charter Schools Act of 1996 and 2) the guidance and compliance provided to both sponsors and applicants by the South Carolina Department within the *South Carolina Public Charter School Application Guidance*.

DETERMINATION OF COSTS AND BENEFITS:

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

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the cost to the state or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

The proposed regulation does not have any effect on the environment or on public health.

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

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

Statement of Rationale:

State Board of Education Regulation 43-601 governs the procedures and standards for review of charter school applications. The proposed amendments would align Regulation 43-601 to 1) recent changes to the South Carolina Charter Schools Act of 1996 and 2) the guidance and compliance provided to both sponsors and applicants by the South Carolina Department within the *South Carolina Public Charter School Application Guidance*.

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. 4495
STATE BOARD OF EDUCATION
CHAPTER 43
Statutory Authority: 1976 Code Sections 59-5-60 (2004), 59-24-30 (2004), and 59-24-40 (2004)

43-165.1. Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)

Preamble:

Regulation 43-165.1 defines the performance standards and criteria for assisting, developing, and evaluating principals in South Carolina. Regulation 43-165.1 also defines the rating scale for determining levels of effectiveness regarding a principal's performance.

The amendments will change the rating levels from three to five and add a tenth standard to the present nine standards. The tenth standard will be a Student Growth standard which will comprise a portion of the principal's overall evaluation, not to exceed fifty percent of the total evaluation.

Notice of Drafting for the proposed amendments regulation was published in the *State Register* on August 22, 2014.

Section-by-Section Discussion

Section II(D)	Adds Performance Standard 10 Student Growth to the original nine standards. Deletes "Needs Improvement" as the lowest rating from the previous year. Adds below Proficient for standards required in the Partial evaluation cycle.
Section III(A)(2)	Adds "upon successfully" to indicate acceptable completion of PIP. Deletes "and receiving an overall rating of *Proficient* or *Exemplary"* as the only ratings indicating successful completion of PIP in year one. Adds In to indicate the beginning of year two in PADEPP. Deletes Needs Improvement as the lowest rating in PADEPP. Adds below Proficient to indicate that this is the lowest rating for attaining Tier 2 status in year two of PADEPP. Deletes Exemplary to indicate that the rating Proficient or above is needed for Tier 2 status in year two of PADEPP. Adds above to indicate that Proficient is the lowest rating for gaining Tier 2 status in year two of PADEPP.
Section III(B)(1)	Deletes numbering for "(1)" since there is no "(2)". Deletes nine to indicate that there is an additional standard, Standard 10 Student Growth. Adds Performance Standard 10 Student Growth to the original nine PADEPP Standards. Adds or below to indicate that there is a rating below Needs Improvement.

Notice of Public Hearing and Opportunity for Public Comment:

A public hearing will be held on December 10, 2014, at 1:00 pm in the Rutledge Conference Center, 1429 Senate Street, Columbia, SC 29201. The proposed amendments will be posted on the State Board of Education Web site for review and comment. To review the regulation click on the attached link http://ed.sc.gov/agency/stateboard/documents/RegReviewedbySBE14-15.pdf.

Written comments should be submitted to Stephen R. Driscoll, Office of School Leadership, 8301 Parklane Road, Columbia, South Carolina 29223 or by e-mail to sdriscoll@ed.sc.gov on or before 5:00 pm on November 24, 2014.

Preliminary Fiscal Impact Statement:

None.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION: 43-165.1. Program for Assisting, Developing and Evaluating Principal Performance (P.A.D.E.P.P.).

Purpose: Regulation 43-165.1 P.A.D.E.P.P Standards and Evaluation Tiers, is being amended.

Legal Authority: 1976 Code Sections 59-5-60 (2004), 59-24-30 (2004), and 59-24-40 (2004).

Plan for Implementation: The proposed amendment will be posted on the South Carolina Department of education's Web site for review and comment. The amendment 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 amendment to this regulation is needed to add Standard 10 Student Growth to the current nine P.A.D.E.P.P. standards and add two additional tiers to the current three evaluation levels for principals. These additions are required to enable the South Carolina Department of Education to comply with the Flexibility Waiver Request stipulations for relief from No Child Left Behind Legislation.

DETERMINATION OF COSTS AND BENEFITS;

None.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation does not have any effect on the environment or public health.

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

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

Statement of Rationale:

The amendment to this regulation will provide a clear definition and criteria for the tenth P.A.D.E.P.P. standard, Student Growth, and clearly delineate the five tiered rating language for a principal's evaluation.

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. 4496
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-75-10 et seq.

61-96. Athletic Trainers.

Preamble:

Regulation 61-96 was last substantively amended on May 28, 2010. The purpose of this regulation is to insure the highest degree of professional conduct by those engaged in offering athletic trainer services to the public and to safeguard the public's health, safety, and welfare by establishing minimum qualifications for those individuals wishing to offer athletic trainer services to the public. The purpose of this amendment is to update the nomenclature and renewal notification requirements. In addition, stylistic changes were included for corrections for clarity, readability, grammar and overall improvement of the text of the regulation.

A Notice of Drafting was published in the *State Register* on May 23, 2014.

Section-by-Section Discussion of Proposed Amendments:

Table of Contents. The Table is revised to bring it current with changes in the text.

Section A. Purpose, Administration and Definitions.
No changes

Section B. Description of the Profession.
No changes.

Section C. Certification.
Section 4. was revised to update the renewal notification process and requirement of maintaining current update information.
Section 5 was revised to clarify the language which specifies the existing addition of late fee and restoration fee.

Section D. Fees.
Section 1.b. was revised language to current accepted parlance.
Section 1.c. was revised language to current accepted parlance.
Section 1.e. was revised to clarify the language which specifies the existing addition of a late fee.
Section 1.f. was revised to clarify the language which specifies the existing addition of a restoration fee.
Section 2. was revised, combined and renumbered to reflect a single fee for both items combined.

Section E. Reciprocity.
No changes.

Section F. Exemption from Certification.
No changes.

Section G. Grandfather Provision.
No changes.

Section H. Change of Name and Address.
Section 2. was revised to update the process for updating one’s address

Section I. Professional Identification.
Section 2. revised "said" to "original".

Section J. Continuing Education.
Section 2.a. was revised to allow Athletic Trainers' Advisory Committee (SCATA) to approve additional CPR courses.
Section 2.b. was revised to use SCATA acronym since it was mention already in Section 2.a. and to correct grammar.

Section K. Revocation, Suspension and Denial of Certification; Penalties; Appeals Process.
No changes.

Section L. Athletic Trainers' Advisory Committee.
No changes.

Section M. Responsibilities of the Department.
No changes.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control on December 11, 2014. The Board will conduct the public hearing in the Board Room, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, South Carolina 29201. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda published by the Department 24 hours in advance of the meeting at the following address: http://www.scdhec.gov/Agency/docs/AGENDA.pdf. The agenda will also provide notice of cancellation or any change in meeting times. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Robert A. Wronski, South Carolina DHEC, 2600 Bull St., Columbia, South Carolina 29201 or by email to wronskra@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on November 24, 2014, the close of the public comment period. Written comments received by the November 24, 2014 deadline shall be considered by the Department in formulating the final proposed regulation for public hearing on December 11, 2014, as noticed above. The Department will submit a summary of public comments and Department responses to the Board for its consideration at the public hearing.

Copies of the proposed regulation for public comment may be obtained by contacting Ms. Shuster at the above address. Also, an electronic copy of the proposed regulation may be obtained on the Department's Regulatory Information Internet Site in the DHEC Regulation Development Update at http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/. (Click on the Health Facilities & Services category, and scan down for this proposed amendment of R.61-96.)

Preliminary Fiscal Impact Statement:

The regulation will have no substantial fiscal or economic impact on the sale or its political subdivisions. Implementation of this regulation will not require additional resources beyond those allowed. There is no anticipated additional cost by the Department or State government due to any inherent requirements of this regulation.

Statement of Need and Reasonableness:

The Department's Bureau of Health Facilities Licensing formulated this statement determined by analysis pursuant to S.C. Code Ann Section 1-23-115 C(1)-(3) and (9)-(11) (2005).

DESCRIPTION OF REGULATION: R. 61-96, *Athletic Trainers.*

Purpose: The purpose of this amendment is to revise the language and content of the Athletic Trainers Regulation. In addition, stylistic changes were included for corrections for clarity, readability, codification and overall improvement of the text of the regulation.

Legal Authority: 1976 Code Section 44-75-10 et seq.

Plan for Implementation: Upon approval from the S.C. General Assembly and publication as a final regulation in the South Carolina State Register, copies of the R.61-96, including these amendments, will be available electronically on the South Carolina Legislature Online website and under the Health Facilities & Services category of the Department's regulation development website at http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/. Printed copies will be available for a fee from the Department's Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation.

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

The Department last amended R.61-96 May 28, 2010. SC. Code Section 1-23-120(J) (Supp. 2012) requires state agencies to perform a review of its regulations every five years and update them if necessary.

Statutory mandates, issues found in the review, and necessity for overall updates render the proposed amendment needed and reasonable. The proposed amendments update the regulation of Athletic Trainer credentialing in South Carolina. The amendments increase the quality regarding stylistic changes for clarity and readability.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or State government due to any inherent requirements of this regulation.

External Costs: There are no external costs anticipated.

External Benefits: The amendments update the renewal notification requirements for Athletic Trainers while maintaining the interests of patient health and safety and lessening provider burdens.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment.

The amendments will reasonably simplify the Athletic Trainer regulations in South Carolina.

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

There would not be a detrimental effect on the environment.

If the revision is not implemented, unnecessary burdens will be placed on the Athletic Trainer providers and the Department by not updating the regulations.

Statement of Rationale:

The Department revises this regulation pursuant to the S.C. Code Ann. Section 1-23-120(J) (Supp. 2012) requirement that state agencies perform a review of its regulations every five years and update them if necessary. The amendments clarify the requirements for certification and recertification, and bring the Regulation up to national standards and best practices.

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. 4497
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 44-1-140 and 44-1-150

61-34.1. Pasteurized Milk and Milk Products

Preamble:

The intent of R.61-34.1, *Pasteurized Milk and Milk Product*, is to ensure that consumers are receiving safe, high quality Grade “A” milk and milk products and to assure consumers that the latest sanitation requirements are being met by the dairy industry. The regulation governs the manufacturing of pasteurized milk and milk products in South Carolina. The current R.61-34.1 was derived from the U.S. Food and Drug Administration (FDA) Grade "A" Pasteurized Milk Ordinance, 2003 Revision.

R.61-34.1 was last amended in 2005. Since that amendment, there have been changes in the milk and milk products industry, and updates to the FDA *Grade "A" Pasteurized Milk Ordinance (PMO)*, on which R.61-34.1 is based. In the most recent FDA Grade "A" Interstate Milk Shippers (IMS) Program Triennial State Evaluation (FY 2011-2013) report on the South Carolina Dairy Program, the current version of R.61-34.1 was determined to be out of date and to not meet the minimum Grade "A" IMS Program requirements. FDA Memorandum of Information (M-I-03-2012 - Supplement 1), requires a state to adopt the *Grade "A" Pasteurized Milk Ordinance (PMO)* or have an equivalent regulation that is not more than six (6) years behind the current National Conference on Interstate Milk Shipments (NCIMS) and the PMO.

The South Carolina Dairy Program's continued participation at NCIMS depends on compliance with the PMO. The proposed amendments will bring R.61-34.1 into compliance with the most updated procedures of the NCIMS; specifically, in accordance with Sections VI. and VII. of the *Procedures Governing the Cooperative State - Public Health Service, Food and Drug Administration Program of NCIMS and the FDA PMO, 2013 Revision*.

Through the FDA Cooperative Milk Safety Program and a Memorandum of Understanding (MOU) established on August 5, 1977 between the FDA and NCIMS, the FDA requires that a state's dairy regulation be at least as stringent as the FDA *Grade "A" Pasteurized Milk Ordinance*.

In order for South Carolina milk producers and processors to continue the shipment of milk and milk products into interstate commerce and market their milk products as Grade "A," it is essential to keep R.61-34.1 updated with respect to the current edition of the FDA *Grade "A" PMO* and its associated documents. The Department intends to incorporate into R.61-34.1 statutory changes so as to match the administrative appeals process pursuant to S.C. Code Ann. Section 44-1-60 (Supp. 2013).

A Notice of Drafting was published in the *State Register* on March 28, 2014. The Notice was also published on the Department's website in its Regulation Development Update. No comments were received. Identified stakeholders have been notified and made aware of the proposed amendment of R.61-34.1. See Discussion of Proposed Revision below and Statement of Need and Reasonableness herein.

Section-by-Section Discussion of Proposed Amendment of Regulation:

The Department of Health and Environmental Control, through statutory authority, may make, adopt, promulgate and enforce reasonable rules and regulations from time to time.

The Department intends to revise R.61-34.1 in its entirety through adoption by reference, with exceptions, to reflect the most recent edition of the FDA *Grade "A" Pasteurized Milk Ordinance (PMO), 2013 Revision* and its associated documents. The Section-By-Section Discussion of Proposed Amendment of Regulation is provided to highlight the exceptions for South Carolina State Law and South Carolina specific regulatory requirements to meet these laws and regulation requirements, and the sections from the PMO being adopted by reference.

The FDA *Grade "A" Pasteurized Milk Ordinance, 2013 Revision*, may be accessed from the Internet at http://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/milk/ucm389905.htm, or a copy can be obtained by contacting the U.S. Food and Drug Administration, Milk Safety Branch, Division of Cooperative Programs, 5100 Paint Branch Parkway, College Park, MD 207403-3835, and is also available for inspection at the DHEC, Environmental Quality Control, Bureau of Environmental Health Services, Division of Food Protection and Rabies Prevention.

This section-by-section information provides relevant details of the adoption by reference of the PMO, 2013 Revision, associated Procedures and Methods documents and the necessary exceptions by sections to the PMO where amendments for South Carolina specific law and regulatory requirements apply.

Correct Statutory Authority to: 1976 S.C. Code Section 44-1-140 and 44-1-150

Adoption of the Grade "A" Pasteurized Milk Ordinance, 2013 Revision and Associated Documents

As published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, all sections, appendices and footnotes of the Grade "A" Pasteurized Milk Ordinance (PMO), 2013 Revision, along with the PMO associated documents are being proposed for adoption by reference with exceptions, and as proposed, the PMO shall become R.61-34.1.

The following sections, appendices, and footnotes of the Grade "A" Pasteurized Milk Ordinance (PMO), 2013 Revision apply in their entirety:

Section 4. Labeling, of the PMO, 2013 Revision, replaces Section IV. Labeling, of R.61-34.1. Changes reflect bringing the regulation current and in accordance with applicable requirements of the Federal Food, Drug and Cosmetic Act (FFD&CA) and the Nutrition Labeling and Education Act through the PMO language updates.

Section 6. The Examination Of Milk And/Or Milk Products, of the PMO, 2013 Revision, replaces Section VI. The Examination Of Milk And Milk Products, of R.61-34.1 to update to current language of the PMO.

Section 7. Standards For Grade "A" Milk And/Or Milk Products, of the PMO, 2013 Revision, replaces Section VII. Standards For Milk And Milk Products, of R.61-34.1 with updates in Table 1 to include goat somatic cell counts numbers and also to include adding public health reasons related to Section 7.

Section 8. Animal Health, of the PMO, 2013 Revision, replaces Section VIII. Animal Health, of R.61-34.1 to update to current PMO language and added language on determination that herd or stock are free of brucellosis by the development and implementation of a State administered brucellosis free herd certification program.

Section 9. Milk And/Or Milk Products Which May Be Sold, of the PMO, 2013 Revision, replaces Section IX. Milk And Milk Products Which May Be Sold, of R.61-34.1 to update to current PMO language.

Section 10. Transferring; Delivery Containers; Cooling, of the PMO, 2013 Revision, replaces Section X. Transferring; Delivery Containers; Cooling, of R.61-34.1 to update to current PMO language.

Section 11. Milk And/Or Milk Products From Points Beyond The Limits Of Routine Inspections, of the PMO, 2013 Revision, replaces Section XI. Milk And Milk Products From Points Beyond The Limits Of Routine Inspections, of R.61-34.1 for language added to define acceptance of milk and milk products from outside the United States from foreign suppliers required to meet standards of the PMO on milk and/or milk products.

Section 12. Plans For Construction And Reconstruction, of the PMO, 2013 Revision, replaces Section XII. Future Dairy Farms, Milk Plants, Construction, Remodeling, Additions And Equipment Changes, of R.61-34.1 to update to current PMO language for title change.

Section 13. Personnel Health, of the PMO, 2013 Revision, replaces Section XIII. Personnel Health, of R.61-34.1 to update to current PMO language.

Section 14. Procedures When Infection Or High Risk Of Infection Is Discovered, of the PMO, 2013 Revision, replaces Section XIV. Procedures When Infection Or High Risk Of Infection Is Discovered, of R.61-34.1.

Section 18. Separability Clause, of the PMO, 2013 Revision replaces Section XIX. Unconstitutionality Clause of R.61-34.1.

Footnotes are adopted as written in the PMO, 2013 Revision without exception.

Appendices A through S are adopted as written in the PMO, 2013 Revision without exception.

The following associated documents of the Grade "A" Pasteurized Milk Ordinance, 2013 Revision apply in their entirety:

Procedures Governing the Cooperative State - Public Health Service, Food and Drug Administration Program of NCIMS, 2013 Revision (Procedures).

Methods of Making Sanitation Ratings of Milk Shippers, 2013 Revision (Methods).

Evaluation of Milk Laboratories, 2013 Revision.

The following provisions of the Grade "A" Pasteurized Milk Ordinance, 2013 Revision apply with the additions, exceptions, and superseding amendments specified below:

Section 1. Definitions

Section 1. Definitions, of the PMO 2013 Revision replaces Section I. Definitions and Standards, of R.61-34.1. Some definitions were amended for South Carolina specific regulatory identification in the PMO.

Amend definition: RR. Regulatory Agency: as defined in the PMO, to read:

RR. REGULATORY AGENCY: The Regulatory Agency shall mean the State of South Carolina's Department of Health and Environmental Control ("the Department") or their authorized representative. The term, "Regulatory Agency", whenever it appears in the *Ordinance* shall mean the appropriate agency, including a Third Party Certifier (TPC) authorized under the NCIMS voluntary International Certification Program (ICP), having jurisdiction and control over the matters embraced within this *Ordinance*.

Ordinance, as used in the Pasteurized Milk Ordinance, 2013 Revision, shall mean the provisions and appendices of the Pasteurized Milk Ordinance, 2013 Revision as adopted by the South Carolina Department of Health and Environmental Control (Department).

Section 2. Adulterated Or Misbranded Milk And/Or Milk Products

Amend Section 2. with the addition of language from R.61-34.1, 2005, to PMO, 2013 Revision, for South Carolina specific regulatory compliance and testing equipment use, as quoted below:

"Milk and milk products shall be examined by the Regulatory Agency as often as may be necessary to determine freedom from adulteration or misbranding. The Regulatory Agency may, upon written notice to the owner or person in charge, place a hold order on any milk or milk product which it determines, or has probable cause to believe, to be unwholesome or otherwise adulterated or misbranded. Under a hold order, milk or milk products shall be permitted to be suitably stored. It shall be unlawful for any person to remove or alter a hold order, notice, or tag placed on milk or milk products by the Regulatory Agency, and neither such milk or milk products nor the containers thereof shall be relabeled, repacked, reprocessed, altered, disposed of, or destroyed without permission of the Regulatory Agency, except on order by a court of competent jurisdiction.

When the freezing point of milk and milk products, other than cultured products, is greater than -525 m^oH (-507 m^oC), the farm or plant owner or manager shall be notified that apparently the milk or milk product contains added water. If a second violation of this freezing point standard occurs within two years, an observed milking or operation of processing shall be conducted and samples analyzed. The freezing point obtained from milk collected during the observation shall be used to determine a definite freezing point from the individual farm or plant. A violation of the determined freezing point for a specific operation by over 3 percent within two years of setting the standard shall call for a two-day permit suspension or equivalent.

A cryoscope or equivalent approved instrument shall be used to determine adulteration by water.

When milk is found to be adulterated by the presence of drugs, pesticides, herbicides, or other poisonous substances, it shall be impounded and additional samples analyzed. Milk found to be adulterated shall be disposed of until analysis shows the product not to be adulterated. If testing reveals milk positive for drug residues, the milk shall be disposed of in a manner that removes it from the human or animal food chain, except where acceptably reconditioned under FDA Compliance Policy Guide (CPG 7126.20). The Regulatory Agency shall determine the producer(s) responsible for the drug residue violation and immediately suspend the producer's Grade "A" permit or equally effective measures shall be taken to prevent the sale of milk containing drug residues and a penalty shall be imposed. Future pick-ups are prohibited until subsequent testing reveals the milk is free of drug residue. The penalty shall be for the value of all milk on the contaminated load plus any costs associated with the disposition of the contaminated load. The Regulatory Agency may accept

certification from the violative producer's milk marketing cooperative or purchaser of milk as satisfying the penalty requirements. The Grade "A" producer's permit may be reinstated, or other action taken, to allow the sale of milk for human food, when a representative sample taken from the producer's milk, prior to commingling with any other milk, is no longer positive for drug residue. Whenever a drug residue test is positive, an investigation shall be made to determine the cause. The farm inspection is completed by The Regulatory Agency to determine the cause of the residue and actions taken to prevent future violations including:

On-farm changes in procedures necessary to prevent future occurrences as recommended by the Regulatory Agency.

Discussion and education on the Drug Residue Avoidance Control measures outlined in Appendix N. of the PMO.

When pasteurized milk or milk products are found to be adulterated by drugs, pesticides, herbicides, or other poisonous substances, the adulterated products shall be removed from the market, disposed of, and sale stopped until analysis proves the product to be free from adulteration.

Amend Section 2. by adding language from R.61-34.1, 2005 to PMO, 2013 Revision, for South Carolina specific regulatory compliance, under administrative procedures the following:

When two of the last four samples of a pasteurized product are in violation of the milkfat or milk solids not fat standard for that product a warning letter shall be issued by the Department. When three of the last five samples are in violation, the Department shall suspend the permit."

Section 3. Permits

Amend Section 3. – PMO, 2013 Revision, with deletion of second paragraph on page 16 of the 2013 PMO. The language, as quoted below, is not in compliance for South Carolina specific law and shall not apply as shown:

"Upon notification, acceptable to the Regulatory Agency, by any person whose permit has been suspended, or upon application within forty-eight (48) hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the Regulatory Agency shall within seventy-two (72) hours proceed to a hearing to ascertain the facts of such violation(s) or interference and upon evidence presented at such hearing shall affirm, modify or rescind the suspension or intention to suspend."

Amend Section 3. – PMO, 2013 Revision, under Administrative Procedures, Suspension of Permit on page 17 of the 2013 PMO with language from R.61-34.1, 2005, that complies with South Carolina specific law.

The following part under **SUSPENSION OF PERMIT** as written in the PMO, 2013 Revision shall not apply, and as quoted below, was deleted:

"The Regulatory Agency may forego suspension of the permit, provided the milk and/or milk product in violation is not sold or offered for sale as a Grade "A" milk and/or milk product. A Regulatory Agency may allow the imposition of a monetary penalty in lieu of a permit suspension, provided the milk and/or milk product in violation is not sold or offered for sale as a Grade "A" milk and/or milk product. Except, that a milk producer may be assessed a monetary penalty in lieu of permit suspension for violative counts provided:

1. If the monetary penalty is due to a violation of the bacterial or cooling temperature standards, the Regulatory Agency shall conduct an inspection of the facility and operating methods and make the

determination that the conditions responsible for the violation have been corrected. Samples shall then be taken at the rate of not more than two (2) per week on separate days within a three (3) week period in order to determine compliance with the appropriate standard as determined in accordance with Section 6 of this Ordinance.

2. If the monetary penalty is due to a violation of the somatic cell count standard, the Regulatory Agency shall verify that the milk supply is within acceptable limits as prescribed in Section 7 of this Ordinance. Samples shall then be taken at the rate of not more than two (2) per week on separate days within a three (3) week period in order to determine compliance with the appropriate standard as determined in accordance with Section 6 of this Ordinance."

The following part was added under **SUSPENSION OF PERMIT**, and as quoted below, shall apply:

"When any requirement(s) of this *Ordinance* is violated, the permit holder is subject to the suspension of their permit.

When the permit suspension is due to violations other than bacterial, coliform, somatic cell, cooling temperature, or drug residue test standards, the permit holder, manager or other authorized representative is notified by certified mail or hand delivery of the intent to suspend the permit in thirty days unless a written request for a hearing is filed with the Department. If no request is made in thirty days, the permits shall be suspended until the violations are corrected.

The Department may without warning, notice, or hearing suspend a permit when an imminent health hazard exists. An imminent health hazard includes, but is not limited to, violations of bacterial, coliform, somatic cell, cooling temperature, or drug residue test standards. Following permit suspension, all manufacturing operations shall immediately cease."

ISSUANCE OF PERMITS, and **REINSTATEMENT OF PERMITS** remain the same and applies as written in the PMO, 2013 Revision under Administrative Procedures.

Section 5. Inspection Of Dairy Farms And Milk Plants

Amend Section 5. – PMO, 2013 Revision, on page 22 of the PMO, fifth paragraph down, reword to read:

One (1) Copy of the inspection/audit report shall be provided to the operator, or other responsible person or be posted in a conspicuous place on an inside wall of the establishment. Said inspection/audit report shall not be defaced and shall be made available to the Regulatory Agency upon request. An identical copy of the inspection/audit report shall be filed with the records of the Regulatory Agency.

Section 15. Enforcement

Amend Section 15. Language from R.61-34.1, 2005, to PMO, 2013 Revision, language for South Carolina specific law, with the addition of the following:

This Regulation is issued and shall be enforced under the authority of Section 44-1-140, 1976 Code of Laws of South Carolina, as amended.

Section 16. Penalty

Amend Section 16. – PMO, 2013 Revision, by deletion of PMO language on page 134 under Section 16. The language is not in compliance for South Carolina specific law, and as quoted below, shall not apply:

"Any person who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not more than $ ... and/or such persons may be enjoined from continuing such violation(s). Each day upon which such a violation(s) occurs shall constitute a separate violation."

Amend Section 16. – PMO, 2013 Revision, by addition of language from R.61-34.1, 2005 that is specific for South Carolina law, and as quoted below, shall apply:

"Violations of this Regulation shall be punishable in accordance with S.C. Code Section 44-1-150. Each day of continued violation shall be a separate offense."

Section 17. Repeal And Date Of Effect

Section 17. – PMO, 2013 Revision, as written shall not apply. Upon approval by the General Assembly and publication in the State Register, the proposed regulation will have the full weight of regulation as R.61-34.1 and supersede the previous regulation of the same.

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation amendments at a public hearing to be conducted by the Board of Health and Environmental Control on January 8, 2015. The Board will conduct the public hearing, Third Floor, Aycock Building of the S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's agenda to be published by the Department 24 hours in advance of the meeting at the following address: http://www.scdhec.gov/Agency/docs/AGENDA.pdf. The agenda will also provide notice of cancellation or any change in meeting times. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and, as a courtesy, are asked to provide written copies of their presentation for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Sandra D. Craig, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on November 24, 2014, the close of the public comment period. Written comments received by the November 24, 2014, deadline shall be considered by the Department in formulating the final proposed regulation amendments for public hearing on January 8, 2015, as noticed above. The Department will submit a summary of public comments and Department responses to the Board for its consideration at the public hearing.

A copy, of the proposed regulation for public comment, may be obtained by contacting Sandra D. Craig at the above address. A copy may also be obtained from the *DHEC Regulation Development Update* on the Department's Regulatory Information Internet Site at http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/. To access this document, click on Environmental Health Services topic and scan down for these proposed amendments of R.61-34.1.

Preliminary Fiscal Impact Statement:

There are no anticipated new costs associated with the implementation of this regulation to the state or its political subdivisions.

The Statement of Need and Reasonableness was determined by staff analysis pursuant to 1976 S.C. Code Section 1-23-115(C) (1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION:

Purpose: The intent of R.61-34.1, *Pasteurized Milk and Milk Products,* is to ensure consumers are receiving safe, high quality Grade "A" milk and milk products and proper sanitation requirements are being met by the dairy industry. The regulation governs the manufacturing of pasteurized milk and milk products in South Carolina. The Department proposes amending R.61-34.1 to meet current standards of the most recent edition of the United States Public Health Service, United States Food and Drug Administration ("FDA") *Grade "A" Pasteurized Milk Ordinance (PMO), 2013 Revision*, inclusive of its associated document.

In accordance with the FDA Cooperative Milk Safety Program and a Memorandum of Understanding (MOU) established on August 5, 1977 between the FDA and the National Conference of Interstate Milk Shipments (NCIMS), a state's dairy regulation must be at least as stringent as the FDA *Grade "A" Pasteurized Milk Ordinance* to meet requirements for interstate commerce of pasteurized milk and milk products. South Carolina is a participant of NCIMS. The proposed amendments will bring R.61-34.1 into compliance with the most updated procedures of NCIMS, specifically Sections VI and VII of the *Procedures Governing the Cooperative State - Public Health Service, Food and Drug Administration Program of the NCIMS* and the 2013 *Grade "A" PMO*.

Legal Authority: The legal authority for R.61-34.1 is 1976 S.C. Code Section 44-1-140 and 44-1-150.

Plan for Implementation: The proposed amendments will take effect upon approval of the General Assembly and publication in the *State Register*. The regulated community will be provided copies of the regulation. As these are federal guidelines, the regulatory community is already familiar with and implementing the requirements.

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

R.61-34.1, *Pasteurized Milk and Milk Products,* was last amended in 2005. Since that amendment, there have been changes in the milk and milk products industry, and numerous revisions to the FDA *Grade "A" Pasteurized Milk Ordinance (PMO),* on which R.61-34.1 is based. The proposed revision of R.61-34.1 represents an update and recognition of technological advances, milk plant environment changes, drug residue controls for food processing animals, and changes in production and processing equipment.

The revision of R.61-34.1 will bring South Carolina into conformance with the PMO requirement adopted by other states, thereby permitting the movement of milk and milk products across state lines and to federal institutions. The incorporation and adoption by reference of the PMO, 2013 Revision, into R.61-34.1 translates new knowledge, technology and methodologies into effective and practicable public health practices.

In the most recent FDA Grade "A" Interstate Milk Shippers (IMS) Program Triennial State Evaluation (FY 2011-2013) report on the South Carolina Dairy Program, the current version of R.61-34.1 was determined to be out of date and to not meet the minimum Grade "A" IMS Program requirements. FDA Memorandum of Information (M-I-03-2012 - Supplement 1), requires that a State must have adopted the *Grade "A" Pasteurized Milk Ordinance (PMO)* or have an equivalent regulation no more than six (6) years behind the current National Conference on Interstate Milk Shipments and PMO. In order for South Carolina milk producers and processors to continue the shipment of milk and milk products into interstate commerce and market their milk products as Grade "A," it is essential to keep R.61-34.1 updated to equal the current edition of the FDA *Grade "A" Pasteurized Milk Ordinance*.

The South Carolina Dairy Program's continued participation at NCIMS depends on compliance with the PMO. The proposed amendments will bring R.61-34.1 into compliance with the most updated procedures of the NCIMS; specifically, in accordance with Sections VI and VII of the *Procedures Governing the Cooperative State - Public Health Service, Food and Drug Administration Program of NCIMS and the FDA PMO, 2013 Revision*.

The Grade "A" PMO, Procedures, and Methods serve as the official documents setting forth the sanitation requirements governing the interstate shipment of milk and milk products to and from other states and federal institutions. Failure to keep South Carolina's milk regulations current and in conformance with other states' requirements could result in South Carolina milk processors and producers not being allowed to ship milk and milk products in interstate commerce or to federal institutions.

DETERMINATION OF COSTS AND BENEFITS:

There are no anticipated new costs associated with the implementation of this regulation. There should be a benefit to South Carolina's environment and the health of its citizens as the intent of this regulation is to ensure that consumers continue to receive safe, high quality Grade "A" milk and milk products based on the latest science. The proposed amendment of Regulation 61-34.1 to the most recent edition of the FDA *Grade "A" Pasteurized Milk Ordinance* will allow the regulation to conform to the current national standard. For the milk and dairy industry, the current edition of the FDA *Grade "A" Pasteurized Milk Ordinance* provides uniformity and consistency with pasteurized milk and milk products regulations nationally for interstate commerce.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

Implementation of the proposed regulation should not compromise the protection of the environment or the public health. The proposed regulation should help ensure consumers are receiving safe, high quality Grade "A" pasteurized milk and milk products. The amendment of R.61-34.1 to conform to the most recent edition of the FDA *Grade "A" Pasteurized Milk Ordinance* also seeks to provide effective means of reducing the risks of foodborne illnesses, thus protecting consumers and industry from potentially devastating public health consequences and financial losses.

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

There should be no adverse effect on the environment if the proposed regulations are not implemented. Not implementing the proposed amendment to R.61-34.1 will prevent the implementation of the latest sanitary standards for Grade "A" pasteurized milk and milk products in manufacturing and processing facilities, and will not provide the comprehensive approach to pasteurized milk and milk products safety required by the most recent edition of the FDA *Grade "A" Pasteurized Milk Ordinance*. Any decrease in sanitary standards could have a detrimental effect on the health of South Carolina's citizens and visitors. Any delays in revising South Carolina's regulation governing pasteurized milk and milk products will also likely result in penalties imposed on the program by FDA and NCIMS. These penalties would include removal of South Carolina's milk and milk product producers and processors from the Interstate Milk Shipments (IMS) listing and the exclusion of South Carolina's regulatory dairy program from participation and voting at the National Conference on Interstate Milk Shipments. This could have a negative economical impact on South Carolina's milk producers and manufacturers.

Statement of Rationale:

The determination to amend this regulation was in response to FDA's FY2011-2013 Triennial State Evaluation report of South Carolina's Grade "A" Interstate Milk Shipments Program dated January 14, 2014. In FDA's FY2011-2013 report and the previous FY2008-2010 report it was noted that South Carolina should adopt into law or by reference the most current edition of the FDA *Grade "A" Pasteurized Milk Ordinance (PMO)* and associated documents. The FDA *Grade "A" Pasteurized Milk Ordinance* is used as the sanitary regulation for pasteurized milk and milk products served on interstate carriers and is recognized by the Public Health Agencies, the milk industry, and many others as the national standard for milk sanitation. The FDA *Grade "A" Pasteurized Milk Ordinance* and its associated documents for *Procedures and Methods*, adopted and uniformly applied, will continue to provide effective public health protection without being unduly burdensome to either the Department or the dairy industry. It represents a consensus of current knowledge and experience and thus represents a practical and equitable milk sanitation standard for the nation.

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. 4498
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Section 44-7-260

61-75. Standards for Licensing Day Care Facilities for Adults

Preamble:

The purpose of the amendment is to clarify regulations pertaining to facilities for adults 18 years of age or older, which offer in a group setting a program of individual and group activities and therapies are affected by this regulation. The proposed new amendments herein include the Department’s Bureau of Health Facilities Licensing effort to improve licensing procedures, care of participants, infection control and sanitation, functional safety, emergency procedures, design and construction, fire and life safety, and overall licensing requirements for day care facilities for adults. In addition, corrections have been made for clarity and readability, grammar, references, codification and overall improvement to the text of the regulation.

A Notice of Drafting was published in the *State Register* on July 25, 2014.

Section-by-Section Discussion of Proposed Amendments

Correct the statutory authority under the title of the regulation in the text.

TABLE OF CONTENTS

The Table of Contents was added to reflect the contents of the regulation.

61-75.101 Definitions
Section 61-75.101 title was revised for clarity. The definitions of 61-75.101.A Administrator and 61-75.101.C Authorized Healthcare Provider have been added. The definitions of 61-75.101.B Adult Day Care Services, 61-75.101.D Day Care Facility for Adults, 61-75.101.H Licensee, 61-75.101.J Participant, and 61-75.101.K Person have been amended. The definitions of 61-75.A.1(b) Board, 61-75.A.1(g) Existing Facility, 61-

75.A.1(h) Fire Safety Authority, and 61-75.A.1(k) New Facility have been deleted. The remaining definitions were renumbered to adjust the codification.

61-75.102 Licensure Requirements
Section 61-75.102.A was revised to clarify the license for Day Care Facilities for Adults. Section 61-75.102.B was added to clarify compliance. Section 61-75.102.C was revised to current statutory reference documenting. Section 61-75.102.D was revised to clarify the effective day and term of license. Sections 61-75.102.G, 61-75.102.I, 61-75.102.J and 61-75.102.N were added to clarify licensure requirements. The remaining sections were renumbered to adjust the codification.

61-75.103 Facility Closure
Section 61-75.103 was added to clarify the procedure for when a facility requests permanent and/or temporary closure.

61-75.104 Zero Census
Section 61-75.104 was added to clarify the procedure for when a facility has zero census.

SECTION 200 – ENFORCING REGULATIONS
The section title of Section 200 was renumbered to adjust the codification and was re-titled to clarify the section contents.

61-75.202 Inspections/Investigations
Section 61-75.202 was added to clarify the inspection and investigation requirements.

SECTION 300 – ENFORCEMENT ACTIONS
Section 300 was renumbered to adjust the codification.

61-75.301 General (Enforcement Actions)
Section 61-75.301.A was revised to clarify the Departments use of monetary penalty when a facility is found in violation.

61-75.302 Violation Classifications
Section 61-75.302 was renumbered to adjust for codification. Former Section 61-75.A(4) Hearings and Appeals was deleted as the procedures are written in statute.

SECTION 400 – POLICIES AND PROCEDURES
Section 400 was renumbered to adjust codification.

61-75.401 Policies and Procedures
Section 61-75.401 was revised to clarify the facility shall develop and implement written policies and procedures.

61-75.402 Administrator
Section 61-75.402. A was revised to amend the reporting time in change of the administrator.

61-75.403 Administrative Record
Section 61-75.403 was revised to amend the administrative record requirement. The remaining sections were renumbered to adjust the codification.

61-75.404 Personnel
Section 61-75.404.A was revised for grammatical changes. Section 61-75.404.C was added to clarify the employee health assessment process. The remaining sections were renumbered to adjust the codification. Section 61-75.404.G was relocated and amended to clarify the first aid training. Former Section 61-75.C.(6) was deleted as the Client Patient Act was repealed from statute and is no longer required. The remaining sections were renumbered to adjust the codification.

SECTION 500 – CARE OF PARTICIPANTS
Section 500 was renumbered to adjust codification.

61-75.501 Activities and Programs
Section 61-75.501.A was revised to improve the clarity of the offered activities and therapies. Section 61-75.501.G was revised to increase the ratio of participants to emergency/sick beds and to clarify roll-away beds are not permitted. Sections 61-75.501.H and 61-75.501.I were corrected for grammar. The remaining sections were renumbered to adjust the codification.

61-75.502 Medical Needs
Sections 61-75.502.A and 61-75.502.D were corrected for grammar. Section 61-75.502.B was added for clarity regarding the pre-enrollment physical examination for a patient transferring from one facility to another. Section 61-75.502.E.4 Antiseptic cleanser was added to the requirement of the standard first-aid kit. The remaining sections were renumbered to adjust the codification.

61-75.503 Participant Records
Section 61-75.503.A.1 was revised to include a photo for identification purposes. Section 61-75.503.A.4.a was amended to include language to clarify the initial assessment. Sections 61-75.503.A.4 and 61-75.503.A.4.c were amended to correct grammar. Section 61-75.503.A.7 was revised to include the participants responsible party/sponsor in the written acknowledgement. The remaining sections were renumbered to adjust the codification.

SECTION 600 FOOD SERVICE
Section 600 was renumbered to adjust codification.

61-75.601 General (Food Service)
Section 67-75.601 was revised to unify the language from several parts of the regulation and relocated to the Food Service section to regulate those facilities preparing food will be regulated, inspected, and permitted pursuant to R.61-25.

61-75.602 Meals and Special Diets
Section 61-75.602 was revised to combine former sections 61-75.E(1) and 61-75.E(2) to create a new section regarding meals and special diets. The remaining sections were deleted and renumbered to adjust the codification.

SECTION 700 FUNCTIONAL SAFETY
Section 700 was renumbered to adjust the codification.

Former Section 61-75.F(1) General (Functional Safety)
Section 61-75.F(1) was deleted and relocated to Section 61-75.401requiring a facility to develop and implement written policies and procedures.

61-75.701 Maintenance
Section 61-75.701 was revised to delete the building code requirements as they are adopted by the South Carolina Building Codes Council.

61-75.702 Emergency/Disaster Preparedness
Section 61-75.702.A was revised to include the floor diagram posted for evacuation of participants, staff, and visitors in case of fire or other emergency. Section 61-75.702.C was revised to clarify the emergency call data shall be posted in an conspicuous place. The remaining sections were renumbered to adjust the codification.

61-75.703 Accidents/Incidents
Section 61-75.703.A was added to clarify the reporting requirements for accidents and incidents. Section 61-75.703.B was added to clarify the information that needs to be in the report.

SECTION 800 INFECTION CONTROL AND SANITATION
Section 800 was renumbered to adjust the codification.

61-75.801 General (Infection Control and Sanitation)
Section 61-75.801 was corrected for grammar.

61-75.802 Linen and Laundry
Section 61-75.802.B was corrected for grammar. The remaining sections were renumbered to adjust the codification.

61-75.807 Tuberculosis Risk Assessment
Sections 61-75.807.A and 61-75.807.B were added to clarify the Department's TB guidelines.

61-75.808 Staff Tuberculosis Screening
Sections 61-75.808.A, 61-75.808.B, 61-75.808.C, and 61-75.808.D were added to clarify the Department's TB guidelines.

SECTION 900 STATEMENT OF RIGHTS OF ADULT DAY CARE PARTICIPANTS
Section 900 was renumbered to adjust the codification. Section 900 was relocated from former Section 61-75.N.

61-75.901 Statement of Rights of Adult Day Care Participants
Section 61-75.901.A was relocated and renumbered to adjust the codification.

SECTION 1000 DESIGN AND CONSTRUCTION
Section 1000 was renumbered to adjust the codification. Section 1000 was relocated from former Section 61-75.H. Sections 61-75.1001, 61-75.1002, 61-75.1003, and 61-75.1004 were revised to current construction requirements.

SECTION 1100 FIRE PROTECTION EQUIPMENT AND SYSTEMS
Section 1100 was renumbered to adjust the codification. Section 1100 was relocated from former Section 61-75.I. Sections 61-75.1101 and 61-75.1102 were revised to current construction requirements.

SECTION 1200 PREVENTIVE MAINTENANCE EQUIPMENT AND UTILITIES
Section 1200 was renumbered to adjust the codification.

61-75.1201 General (Preventive Maintenance Equipment and Utilities)
Section 61-75.1201 was added to clarify the preventive maintenance equipment and utilities requirement.

61-75.1202 Signal System
Section 61-75.1202 was revised to clarify the current signal system requirements.

61-75.1203 Restrooms
Section 61-75.1203 was revised to clarify the current construction requirements.

61-75.1204 Janitor's Closets
Section 61-75.1204 was revised to clarify the current janitor's closets requirements.

61-75.1205 Storage Areas
Section 61-75.1205 was revised to clarify the current storage areas requirements.

61-75.1206 Elevators
Section 61-75.1206 was revised to clarify the current inspection requirements for elevators.

61-75.1207 Telephone
Section 61-75.1207, formerly Section 61-75.H(7)(d), was relocated and renumbered to adjust for codification.

61-75.1208 Location
Section 61-75.1208, formerly Section 61-75.H(7), was relocated and renumbered to adjust for codification.

61-75.1209 Furnishings/Equipment
Section 61-75.1209 was added to clarify the furnishings and equipment requirements.

61-75.1210 Water Requirements.
Section 61-75.1210, formerly Section 61-75.H(9), was relocated and revised to current water requirement standards. The remaining sections were renumbered to adjust the codification.

61-75.1211 Panelboards
Section 61-75.1211 was added to clarify the construction requirements.

61-75.1212 Lighting
Section 61-75.1212, formerly Section 61-75.J(2), was relocated and revised to current construction requirements. The remaining sections were renumbered to adjust for codification.

61-75.1213 Heating, Ventilation, and Air Conditioning (HVAC)
Section 61-75.1213, formerly Section 61-75.H(8)(g), was relocated and revised to current construction requirements. The remaining sections were renumbered to adjust for codification.

SECTION 1300 SEVERABILITY
Section 1300 was renumbered to adjust the codification.

61-75.1301 General (Severability)
Section 61-75.1301 was added to clarify the effectiveness of the regulation.

SECTION 1400 GENERAL
Section 61-75.1400 was renumbered to adjust the codification.

61-75.1401 General
Section 61-75.1401 was revised to clarify best practices as interpreted by the Department.

Notice of Public Hearing and Opportunity for Public Comments:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Board of Health and Environmental Control on December 11, 2014. The Board will conduct the public hearing in the Board Room, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, South Carolina 29201. The Board meeting commences at 10:00 a.m., at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearings will be noted in the Board's

agenda published by the Department 24 hours in advance of the meeting at the following address: http://www.scdhec.gov/Agency/docs/AGENDA.pdf. The agenda will also provide notice of cancellation or any change in meeting times. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation by writing to Gwen C. Thompson, South Carolina DHEC, 2600 Bull St., Columbia, South Carolina 29201 or by email to thompsgw@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on November 24, 2014, the close of the public comment period. Written comments received by the November 24, 2014, deadline shall be considered by the Department in formulating the final proposed regulation for public hearing on December 11, 2014, as noticed above. The Department will submit a summary of public comments and Department responses to the Board for its consideration at the public hearing.

Copies of the proposed regulation for public comment may be obtained by contacting Ms. Thompson at the above address. Also, an electronic copy of the proposed regulation may be obtained on the Department's Regulatory Information Internet Site in the *DHEC Regulation Development Update* at http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/. (Click on the Health Facilities & Services topic and scan down for this proposed amendment of R.61-75).

Preliminary Fiscal Impact Statement:

Implementation of this regulation will not require additional resources. There is no anticipated additional cost by the Department or State government due to any inherent requirements of this regulation. There are no external costs anticipated.

Statement of Need and Reasonableness:

The Department’s Bureau of Health Facilities Licensing formulated this statement determined by analysis pursuant to 1976 Code Section 1-23-115 C(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: R. 61-75, *Standards for Licensing Day Care Facilities for Adults.*

Purpose: The purpose of the amendment is to clarify regulations pertaining to facilities for adults 18 years of age or older, which offer in a group setting a program of individual and group activities and therapies are affected by this regulation. The proposed new amendments herein include the Department’s Bureau of Health Facilities Licensing effort to improve licensing procedures, care of participants, infection control and sanitation, functional safety, emergency procedures, design and construction, fire and life safety, and overall licensing requirements for day care facilities for adults. In addition, corrections have been made for clarity and readability, grammar, references, codification and overall improvement to the text of the regulation.

Legal Authority: 1976 Code Sections 44-7-260.

Plan for Implementation: Upon approval from the S.C. General Assembly and publication as a final regulation in the South Carolina State Register, a copy of R.61-75, that includes these amendments, will be available electronically on the Department's website under the Health Regulations Category athttp://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/ and subsequently in the Code of Regulations of the S.C. Code of Laws. Printed copies will be available for a fee from the Department's Freedom of Information Office. Staff will educate the regulated community on the provisions of the Act and the requirements of the regulation.

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

The Department promulgated R.61-75 June 28, 1991. The regulation was amended on December 5, 2003. 1976 Code Section 1-23-120(J) requires state agencies to perform a review of its regulations every five years and update them if necessary.

Statutory mandates, issues found in the review, and the necessity for overall updates renders the proposed amendment needed and reasonable. The proposed amendments improve the construction requirements regarding the licensee. In addition, corrections have been made for clarity and readability, grammar, references, codification and overall improvement to the text of the regulation.

DETERMINATION OF COSTS AND BENEFITS:

Internal Costs: There is no anticipated additional cost by the Department or State government due to any inherent requirements of this regulation.

External Costs: There are no external costs anticipated.

External Benefits: The amendments update licensing procedures, care of participants, infection control and sanitation, functional safety, emergency procedures, design and construction, and fire and life safety, while maintaining the interests of participants' health and safety and lessening provider burdens. The amendments update the standards to statutory mandates. The proposed amendments seek to benefit the regulated community by clarifying the regulations and increasing their ease of use.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment.

The amendments seek to reasonably simplify the construction requirements while providing clarification and streamlining standards in the interest of participant care and safety for the day care facilities for adults. The amendments also seek to align the regulation with statutory requirements.

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

There would not be a detrimental effect on the environment.

If the revision is not implemented, unnecessary construction burdens may be placed on day care facilities for adults. The amendments seek to improve the definitions pertinent to day care facilities for adults, licensure requirements, meal service requirements, construction requirements to be current with building codes and fire and life safety codes while streamlining the standards for clarification in the interest of resident care and safety. In addition, the amendments align the regulation with statutory requirements.

Statement of Rationale:

The Department revises this regulation pursuant to the 1976 Code Section 1-23-120(J) requirement that state agencies perform a review of its regulations every five years and update them if necessary. The amendments seek to improve the regulation to be aligned with statutory mandates, to improve licensure requirements, meal

service requirements, the references to building codes, constructions requirements, and fire and life safety codes. In addition, corrections have been made for clarity and readability, grammar, references, codification and overall improvement to the text of the 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.

Document No. 4499
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF ARCHITECTURAL EXAMINERS
CHAPTER 11
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-3-50, and 40-3-60

11-**5. Applications and Fees.**

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 11-5 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

11-**5. Applications and Fees.**

A. No Changes.
B. Changes to reference fees in Chapter 10-3 and link to Board of Architectural Examiners website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Lenora Addison-Miles, Board of Architectural Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-3-50, and 40-3-60.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4500
DEPARTMENT OF LABOR, LICENSING AND REGULATION
STATE ATHLETIC COMMISSION
CHAPTER 20
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-81-40, and 40-81-70

20-4.10. License Fees.
20-23.11. License Fees.
20-24.10. License Fees.
20-27.23. Fees.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulations 20-4.10, 20-23.11, 20-24.10, and 20-27.33 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Commission's website where the fees will also appear.

Section-by-Section Discussion

20-4.10. License Fees.

1. Changes to reference fees in Chapter 10-4 and link to State Athletic Commission website where the fees will also appear.

20-23.11. License Fees.

1. Changes to reference fees in Chapter 10-4 and link to State Athletic Commission website where the fees will also appear.

20-24.10. License Fees.

1. Changes to reference fees in Chapter 10-4 and link to State Athletic Commission website where the fees will also appear.

20-27.23. Fees.

1. Changes to reference fees in Chapter 10-4 and link to State Athletic Commission website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Roderick Atkinson, Administrator, State Athletic Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for these regulations.

Statement of Need and Reasonableness:

These regulations are amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Commission is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-81-40, and 40-81-70.

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

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

The proposed regulations will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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 these regulations are not implemented.

Statement of Rationale:

The updated regulations will centralize fee schedules and remove duplicative and outdated information.

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. 4501
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BUILDING CODES COUNCIL
CHAPTER 8
Statutory Authority: 1976 Code Section 6-8-20, 6-9-40, 40-1-50, and 40-1-70

8-115. Classification and Qualifications for Registration.
8-601. Purpose.
8-602. Definitions.
8-604. Adoption of Model Codes.
8-607. Approved Inspection Agency Authority.
8-613. Multiple Site Manufacturing.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulations 8-115, 8-601, 8-602, 8-604, 8-607, and 8-613 generally and to update the regulations to comport with Act 179 from the 2013-2014 legislative session.

Section-by-Section Discussion

8-115. Classification and Qualifications for Registration.
(A)-(C) No Changes.
(D) Add definition of Residential Plans Examiner, language to comport with Act 179 from the 2013-2014 legislative session.
(D)-(I) Renumber to adjust for additional definition, language to comport with Act 179 from the 2013-2014 legislative session.
(I) New number and add 17. Fire Resistant Penetrations and Joint Systems, language to comport with Act 179 from the 2013-2014 legislative session.

8-601. Purpose.
(1) No change.
(2) Remove “regardless of whether or not building codes are adopted and administered in the areas where erection takes place.”
(3) No change.

8-602. Definitions.
(1)-(2) No change.
(3) Add definition of Approved Inspection Agency, language to comport with Act 179 from the 2013-2014 legislative session.
(4)-(24) Renumber to adjust for additional definition.

8-604. Adoption of Model Codes.
(1) No change.
(2) Change language to comport with Act 179 from the 2013-2014 legislative session.
(3)-(5) No change.

8-607. Approved Inspection Agency Authority.
(1)-(2) No changes.
(3)-(4) Replace language to comport with Act 179 from the 2013-2014 legislative session.
(4)(a)-(12) No change.

8-613. Multiple Site Manufacturing.

(1)-(1)(a) Add "required" to comport with Act 179 from the 2013-2014 legislative session.

(1)(b)-(2) No change.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 Monday, December 1, 2014. Written comments may be directed to Roger K. Lowe, Building Codes Council, South Carolina Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Monday, November 24, 2014. 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 for these regulations.

Statement of Need and Reasonableness:

These regulations are amended to comport with Act 179 from the 2013-2014 legislative session.

DESCRIPTION OF REGULATION:

Purpose: The Council is amending regulations to comport with Act 179 from the 2013-2014 legislative session.

Legal Authority: 1976 Code Sections 6-8-20, 6-9-40, 40-1-50, and 40-1-70.

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

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

The proposed regulations will bring the Building Codes Council into compliance with Act 179 from the 2013-2014 legislative session.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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 these regulations are not implemented.

Statement of Rationale:

The updated regulations will bring the Building Codes Council into compliance with Act 179 from the 2013-2014 legislative session.

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. 4502
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF DENTISTRY
CHAPTER 39
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-15-40

39-1. License to Practice Dentistry.
39-2. License to Practice Dental Hygiene.
39-3. Registration as a Dental Technician.
39-18. Mobile Dental Facilities and Portable Dental Operations.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulations 39-1, 39-2, 39-3, and 39-18 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

39-1. License to Practice Dentistry.
(A)-(B) No change.
(C)(1) Repeal.
(C)(2) Renumber to (D).
(D) Renumber to (E).
(F) New section; comport with establishment of fees in Chapter 10 of the Regulations.

39-2. License to Practice Dental Hygiene.
(A)-(B)(3) No change.
(B)(4) Change to comport with establishment of fees in Chapter 10 of the Regulations.
(C) No change.

39-3. Registration as a Dental Technician.
(A)-(B)(4) No change.
(B)(5) Add language to comport with establishment of fees in Chapter 10 of the Regulations.
(B)(5)(a) Repeal.
(C) No change.

39-18. Mobile Dental Facilities and Portable Dental Operations.

(A)-(D)(3) No change.

(D)(4) Change to comport with establishment of fees in Chapter 10 of the Regulations.

(D)(5)-(Q) No change.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Kate Cox, Administrator for the Board of Dentistry, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for these regulations.

Statement of Need and Reasonableness:

These regulations are amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-15-40.

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

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

The proposed regulations will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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 these regulations are not implemented.

Statement of Rationale:

The updated regulations will centralize fee schedules and remove duplicative and outdated information.

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. 4503
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS
CHAPTER 49
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-22-60

49-103. Fees.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 49-103 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

49-103. Fees.

(A) Changes to reference fees in Chapter 10-14 and link to Board of Registration for Professional Engineers and Surveyors website where the fees will also appear.
(B) No changes.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Lenora Addison-Miles, Administrator, Board of Registration for Professional Engineers and Surveyors, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with the establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-22-60.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4504
DEPARTMENT OF LABOR, LICENSING AND REGULATION
ENVIRONMENTAL CERTIFICATION BOARD
CHAPTER 51
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-23-60

51-6. Fees.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 51-6 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

51-6. Fees.

(A)-(S) Delete existing regulations and replace with a reference to fees in Chapter 10-15 and link to Environmental Certification Board website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Molly Price, Administrator, Environmental Certification Board, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-23-60.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4505
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF FUNERAL SERVICE
CHAPTER 57
Statutory Authority: 1976 Code Sections 40-1-70, 40-19-50 and 40-19-60

57-12. Fees.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 57-12 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

57-12. Fees.

(A) Changes to reference fees in Chapter 10-17 and adds a link to Board of Funeral Service website where the fees will also appear.

(B) No change.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Doris Cubitt, Administrator, Board of Funeral Service, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-70, 40-19-50 and 40-19-60.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4506
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF REGISTRATION FOR GEOLOGISTS
CHAPTER 131
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-77-50, and 40-77-60

131-13**. Fees.**

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 131-13 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

131-13. Fees.

(1) Add reference to fees in Chapter 10-18 and link to Board of Registration for Geologists website where the fees will also appear.
(A)-(F) Repeal.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Molly Price, Administrator, Board of Registration for Geologists, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-77-50, and 40-77-60.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4507
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF LONG TERM HEALTH CARE ADMINISTRATORS
CHAPTER 93
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-35-60

93-100. Fees [and Fee Schedule]

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 93-100 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

93-100. Fees [and Fee Schedule].

(A) No change.
(B) Changes to reference fees in Chapter 10-21 and link to Board of Board of Long Term Health Care Administrators website where the fees will also appear.
(C)-(E)-Repeal
Attachment A-Repeal

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Lee Ann Bundrick, Administrator, Board of Pharmacy, South Carolina Department of Labor, Licensing, and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-35-60.

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 website.

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

The proposed regulations will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4508
DEPARTMENT OF LABOR, LICENSING AND REGULATION
MANUFACTURED HOUSING BOARD
CHAPTER 79
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-29-10

79-26. Fees.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 79-26 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

79-26. Fees.

(A) No change.

(B) Adds language to reference fees in Chapter 10-22 and link to Board of Manufactured Housing website where the fees will also appear.
(C)-(J) Repeal.
(K) Renumber as (C).

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Roger K. Lowe, Administrator, Board of Manufactured Housing, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-29-10.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4509
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF MEDICAL EXAMINERS
CHAPTER 81
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-47-10

81-300. Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 81-300 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

81-300. Fees.

(A)-(F) Repeal.
Add reference fees in Chapter 10-24 and link to Board of Medical Examiners website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Sheridon Spoon, Administrator, Board of Medical Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-47-10.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4510
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF NURSING
CHAPTER 91
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-33-10

91-31. Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 91-31 to comport with establishment of fees in Chapter 10-25 of the Regulations.

Section-by-Section Discussion

91-31. Fees.

First Paragraph - delete.
(a) Delete in its entirety.
(b) Renumber to (a).
(c) Renumber to (b).

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Nancy G. Murphy, Administrator, Board of Nursing, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-33-10.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4511
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS IN OPTICIANRY
CHAPTER 96
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-38-60, and 40-38-250

96-109. Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 96-109 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

96-109. Fees.

Replace current text to reference fees in Chapter 10-27 and link to Board Examiners in Opticianry website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Angela Combs, Administrator, Board of Registration for Geologists, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-38-60, and 40-38-250.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4512
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PHYSICAL THERAPY EXAMINERS
CHAPTER 101
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-45-50, and 40-45-60

101-08. Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 101-08 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

101-08. Fees.

(A) Replace current text to reference fees in Chapter 10-27 and link to Board of Physical Therapy Examiners website where the fees will also appear.
(B)-(D) No change.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Veronica Reynolds, Administrator, Board of Physical Therapy Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-45-50, and 40-45-60.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4513
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF PODIATRY EXAMINERS
CHAPTER 134
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-51-40

134-20. Fees to Practice Podiatry
134-40. Fees for Examinations

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulations 134-20 and 134-40 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulations a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

134-20. Fees to Practice Podiatry.

Replace current text to reference fees in Chapter 10-32 and link to Board of Podiatry Examiners website where the fees will also appear.

134-40. Fees for Examinations.

Replace current text to reference fees in Chapter 10-32 and link to Board of Podiatry Examiners website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Sheridon Spoon, Administrator, Board of Podiatry Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for these regulations.

Statement of Need and Reasonableness:

These regulations are amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-51-40.

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

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

The proposed regulations will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no effect on the environment.

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 these regulations are not implemented.

Statement of Rationale:

The updated regulations will centralize fee schedules and remove duplicative and outdated information.

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. 4514
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS FOR LICENSURE OF PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, AND PSYCHO-EDUCATIONAL SPECIALISTS
CHAPTER 36
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-75-60

36-15. Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 36-15 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

36-15. Fees.
(A) Replace current text to reference fees in Chapter 10-33 and link to the Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists website where the fees will also appear.
(B) No change.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Patricia Glenn, Administrator, Board of Examiners for the Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-75-60.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4515
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF EXAMINERS IN PSYCHOLOGY
CHAPTER 100
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-55-85

100-7. Fees.

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 100-7 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

100-7. Fees.

Replace current text to reference nonrefundable fees in Chapter 10-34 and link to Board of Examiners in Psychology website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Patricia Glenn, Administrator, Board of Examiners in Psychology, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-55-85.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4516
DEPARTMENT OF LABOR, LICENSING AND REGULATION
REAL ESTATE APPRAISERS BOARD
CHAPTER 137
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-60-10 and 40-60-50

137-800.03**. Annual Fee Schedule**

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 137-800.03 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

137-800.03. Annual Fee Schedule.

Replace current text to reference nonrefundable fees in Chapter 10-36 and link to Real Estate Appraisers Board website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Roderick Atkinson, Administrator, Real Estate Appraisers Board, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-60-10 and 40-60-50.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4517
DEPARTMENT OF LABOR, LICENSING AND REGULATION
REAL ESTATE COMMISSION
CHAPTER 105
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-57-60

105-13. Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 105-13 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Commission's website where the fees will also appear.

Section-by-Section Discussion

105-13. Fees.

Replace current text to reference nonrefundable fees in Chapter 10-37 and link to Real Estate Commission website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Roderick Atkinson, Administrator, Real Estate Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Commission is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-57-60.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4518
DEPARTMENT OF LABOR, LICENSING AND REGULATION
RESIDENTIAL BUILDERS COMMISSION
CHAPTER 106
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-59-70, and 40-59-610

106-3. Initial Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 106-3 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Commission's website where the fees will also appear.

Section-by-Section Discussion

106-3. Initial Fees.

Replace current text to reference nonrefundable fees in Chapter 10-38 and link to the Residential Builders Commission website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Janet Baumberger, Administrator, Residential Builders Commission, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Commission is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-59-70, and 40-59-610.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4519
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOIL CLASSIFIER ADVISORY COUNCIL
CHAPTER 108
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-65-70

108-7. Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 108-7 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Council's website where the fees will also appear.

Section-by-Section Discussion

108-7. Fees.

Replace current text to reference nonrefundable fees in Chapter 10-40 and link to the Soil Classifier Advisory Council website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Lenora Addison-Miles, Administrator, Soil Classifiers Council, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Council is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, and 40-65-70.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4520
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 120
Statutory Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-69-60, and 40-69-70

120-14. Fees

Preamble:

The South Carolina Department of Labor, Licensing and Regulation proposes to amend Regulation 120-14 to remove the existing schedule of fees, cross-reference the fees in their new location in Chapter 10, and include in the regulation a link to the Board's website where the fees will also appear.

Section-by-Section Discussion

120-14. Fees.

Replace current text to reference nonrefundable fees in Chapter 10-42 and link to Board of Veterinary Medical Examiners website where the fees will also appear.

A Notice of Drafting was published in the *State Register* on September 26, 2014.

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 December 8, 2014. Written comments may be directed to Kate Cox, Administrator, Board of Veterinary Medical Examiners, South Carolina Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., November 24, 2014. 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 for this regulation.

Statement of Need and Reasonableness:

This regulation is amended to comport with establishment of fees in Chapter 10 of the Regulations.

DESCRIPTION OF REGULATION:

Purpose: The Board is repealing fees now established in Chapter 10.

Legal Authority: 1976 Code Sections 40-1-50, 40-1-70, 40-69-60, and 40-69-70.

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 website.

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

The proposed regulation will comport with establishment of fees in Chapter 10 of the Regulations.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of 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.

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.

Statement of Rationale:

The updated regulation will centralize fee schedules and remove duplicative and outdated information.

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. 4521
BOARD OF PHARMACY
CHAPTER 99
Statutory Authority: 1976 Code Sections 40-1-70, 40-43-60(C) and (D)(8), 40-43-150(C), and 40-43-160(A)

99-45. Administrative Citations and Penalties
99-46. Fines

Preamble:

To establish administrative citation authority and a penalty schedule for pharmacists, pharmacy technicians and permit holders, the Board is adding Regulations 99-45 and 99-46 in conformance with the Pharmacy Practice Act and current practice. To establish a fine amount as required by S.C. Code Ann. §§ 40-43-150(C) and 40-43-160, the Board is establishing fines in regulation.

Section-by-Section Discussion:

99-45. Administrative Citations and Penalties.

This section adds authority to administer citations and a schedule for penalties resulting from such citations.

99-46. Fines.

This section sets forth fine amounts, as required by statute.

The Notice of Drafting was published in the *State Register* on July 25, 2014.

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 on December 1, 2014 at 10:00 a.m. Written comments may be directed to Lee Ann Bundrick, Administrator, South Carolina Board of Pharmacy, Department of Labor, Licensing, and Regulation, Post Office Box 11927, Columbia, South Carolina 29211-1927, no later than 5:00 p.m., November 30, 2014. 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 for the promulgation of these regulations.

Statement of Need and Reasonableness:

These regulations are added in accordance with S.C. Code Ann. §§40-1-70 and 40-43-60(D)(8) regarding the promulgation of regulations. Regulation 99-45 adds authority to issue administrative citations and a penalty schedule in keeping with such authority under 40-43-60(C). Additionally, S.C. Code Ann. §§ 40-43-150(C) and 40-43-160 state that fines for licensees, permittees, or individuals unlawfully practicing pharmacy should be set forth in an amount specified in regulation.

DESCRIPTION OF REGULATION:

Purpose: The Board is adding the regulations in conformance with the Board's practice act and current practice.

Legal Authority: 1976 Code Sections 40-1-70, 40-43-60(C), 40-43-60 (D)(8), 40-43-150(C), and 40-43-160(A).

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

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

The Board is adding the regulations in conformance with its practice act and current practice.

DETERMINATION OF COSTS AND BENEFITS:

There is no cost incurred by the state for the promulgation of these regulations.

UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates concerning the regulations.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

These regulations will have no detrimental effect on the environment. These regulations contribute to the Board's function of protecting public welfare 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 these regulations are not implemented.

Statement of Rationale:

These regulations are added in conformance with the Board's practice act and current practice.

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: September 29, 2014 11:11am

Document No. 4487
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 1-23-130 and 44-7-110 et seq.

61-15. Certification of Need for Health Facilities and Services.

Emergency Situation:

Between July 1, 2013, and April 14, 2014, the South Carolina Department of Health and Environmental Control (“the Department”) did not administer the Certificate of Need ("CON") program. As a result, multiple CON-granted projects were not afforded the opportunity to obtain extensions.

Current regulation requires that any entity seeking a staff extension must notify the Department at least 30 days before the CON expires, and any entity seeking a Board extension must notify the Board at least three months before the CON expires. R.61-15, Sections 601 and 602. Due to the suspension of CON for the above timeframe, complying with this notice requirement was an impossibility for some CON holders.

The Department promulgates this emergency regulation to enable CON holders deprived of extension opportunities to request an extension as intended by the governing statute. The Department has previously determined these projects will fulfill an existing need for health services. Absent the opportunity to obtain extensions and move forward with their projects, holders of multiple CONs will be unable to fulfill that need. The Department finds this emergency regulation is required to avoid any imminent peril to public health and welfare that might result from the public’s deprivation of these needed health services.

Text:

1. Sections 601, 602, and 603 of R.61-15 are suspended for the period of time in which this emergency regulation is in effect. All requests for Certificate of Need extensions pending as of the effective date of this emergency regulation and all requests for Certificate of Need extensions submitted to the Department during the period of time this emergency regulation is in effect will be processed pursuant to the procedures contained herein.

2. Holders of Certificates of Need with original or extended expiration dates falling on or after July 1, 2013, may request an extension of the Certificate of Need pursuant to the procedures contained herein.

3. Requests for extensions of Certificates of Need shall be submitted to the Department to the attention of the Director of the Certificate of Need Program and shall contain the following information: (a) a copy of the Certificate of Need that is the subject of the request; (b) a brief history of any previous requests for an extension of the Certificate of Need, including copies of any correspondence between the holder of the Certificate of Need and the Department related to such requests; (c) a statement as to the amount of time for which the extension is requested; (d) a description of any changes to the cost, location, services, or scope of the project; (e) a description of any progress on the project; and (f) an estimated timetable for commencement and completion of all remaining components of the project. Based upon the date the Certificate of Need was originally set to expire, the number and length of any previously granted extensions, and the amount of additional time sought in the extension request, the Department will determine whether the extension request requires review by the Board pursuant to Section 44-7-230(D) of the South Carolina Code of Laws. If the extension request requires review by the Board, the Department will forward the information provided by the applicant to the Board for consideration.

4. Requests for extensions may be granted by the Department or the Board, as appropriate pursuant to Section 44-7-230(D), upon evidence that substantial progress has been made on the project. Consideration may be given to any evidence presented by the requestor indicating that extenuating circumstances beyond the control of the holder of the Certificate of Need are the cause of the delay.

Document No. 4462
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61
Statutory Authority: 1976 Code Sections 13-7-10 et seq.

61-63. Radioactive Materials (Title A)

Synopsis:

The United States Nuclear Regulatory Commission (NRC) promulgates amendments to NRC Regulations-Title 10, Code of Federal Regulations throughout each calendar year. Recent amendments include requirements for Decommissioning Planning (RATS-ID 2011-1), Licenses, Certifications, and Approvals for Materials Licensees (RATS-ID 2011-2), Technical Corrections (RATS-ID 2012-3), Requirements for Distribution of Byproduct Material (RATS-ID 2012-4), Physical Protection of Byproduct Material (RATS-ID 2013-1), and Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions (RATS-ID 2013-2) These final rules have been published in the Federal Register at 76 FR 35512 on June 17, 2011, 76 FR 56951 on September 15, 2011, 77 FR 39899 on July 6, 2012, 77 FR 43666 on July 25, 2012, 78 FR 16922 on March 19, 2013, and 78 FR 32310 on May 29, 2013, respectively. The Department amended R.61-63, Radioactive Materials (Title A), to incorporate the above-described federal regulations to maintain conformity with federal requirements found in 10 CFR Parts 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 51, 70, and 71 and ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954.

The Department amended R.61-63 by Document No. 4123 published in the State Register on March 26, 2010 to adopt federal regulations published as final rules in the Federal Register at 71 FR 65685, 72 FR 55864, and 73 FR 42761. The Department has also made minor corrections to 61-63 RHA 2.4, General Licensing Requirements, to clarify the order of text in this section and will add a paragraph at RHA 3.58, Appendix G, Nationally Tracked Sources-Serialization and Reports of Transactions, that was inadvertently omitted in the prior promulgation. These amendments will conform R.61-63 with the federal regulations.

These regulations are not subject to legislative review pursuant to S.C. Section 1-23-120(H)(1); as such, neither a fiscal impact statement nor assessment report is required.

A Notice of Drafting for the Department's adoption of these federal amendments was published in the November 22, 2013 *State Register*.

Section-by-Section Discussion of Regulation:

1.2.38
Revise definition of “Unrefined and unprocessed ore”.

1.15.11
Delete

1.15.11 - 1.15.11.2.8
Adds requirements for decommissioning funding plans.

1.15.12
Revise requirements for financial instruments for decommissioning.

2.3.1
Revise clarifying requirements for small quantities of source material.

2.3.1.1 - 2.3.1.4
Add requirements involving small quantities of source material.

2.3.1.1
Replace "Commission" with "Department".

2.3.2
Revise clarifying requirements involving small quantities of source material.

2.3.2.1 - 2.3.2.4
Add requirements concerning small quantity source material.

2.3.3 through 2.3.5
Adds requirements concerning small quantities of source material.

2.4.2.2 - 2.4.2.2.3
Revise for clarification involving small quantities of source material.

2.5.7 - 2.5.7.3.2
Delete.

2.5.7 - 2.5.7.4
Add requirements for filing an application for a sealed source specific license.

2.7.1.1.2.2
Revise clarifying requirements for generally licensed items.

2.7.1.1.6
Add clarification for registration of devices.

2.7.5.2.5 - 2.7.5.2.5.6
Add for clarification concerning issuance of specific licenses for nuclear pharmacy.

2.7.7.1.4
Add clarification for registration of sources and devices.

2.7.13.1.4.2
Revise clarifying testing requirements.

2.7.13.1.5 - 2.7.13.1.5.4
Add requirements for calibration of reference sources containing Americium-241 or Radium-226.

2.7.13.3
Revise clarifying requirements concerning wipe tests.

2.7.14
Add Section, requirements for luminous safety devices for use in aircraft.

2.7.14.4.4
Revise clarifying reference.

2.7.14.7 through 2.7.14.7.4.2.2
Adds requirements for quality assurance and transfer requirements for luminous safety devices for use in aircraft.

2.7.14.8 through 2.7.14.8.2
Adds requirements for material transfer reports for luminous safety devices for use in aircraft.

2.7.15
Add Section, requirements for ice detection devices containing strontium-90.

2.7.16
Add Section, requirements for license to initially transfer source material for use under the small quantities of source material general license.

2.7.16.1
Revise clarifying requirements for license to initially transfer source material for use under the 'small quantities of source material' general license.

2.7.16.2.3
Revise clarifying requirements for license to initially transfer source material for use under the 'small quantities of source material' general license.

2.7.16.2.4.1.2
Revise clarifying requirements for license to initially transfer source material for use under the 'small quantities of source material' general license.

2.7.16.2.4.3
Revise clarifying requirements for license to initially transfer source material for use under the 'small quantities of source material' general license.

2.10.2
Delete.

2.10.2.1 – 2.10.2.2.2
Add clarifying requirements concerning specific terms and conditions of licenses.

2.10.6.2
Revise for reference change.

2.11.11.4
Revise for reference change.

2.15
Number paragraph 2.15.1.

2.15.2
Add requirements for application of license transfer.

2.20.1.3
Revise clarifying source material exemptions.

2.20.1.3.2
Revise clarifying specific source materials.

2.20.1.3.5.1
Delete.

2.20.1.3.5.2 - 2.20.1.3.5.4
Renumber accordingly as 2.20.1.3.5.1 thru 2.20.1.3.5.3.

Footnote 5 (2.20.1.3.5.3)
Revise modifying requirements concerning marking of counterweights .

2.20.1.3.7
Revise modifying thorium and uranium exemption.

2.20.1.3.10 - 2.20.1.3.10.2
Add requirements to transfer or distribute source material.

2.20.2.2.10 - 2.20.2.2.12
Add requirements for static elimination devices.

2.20.2.2.13
Add requirements for certain items containing byproduct material.

2.20.2.3 - 2.20.2.3.1
Revise modifying requirements for gas and aerosol detectors.

2.20.2.4
Revise clarifying requirements for self-luminous products containing tritium, krypton-85, or promethium-147.

2.20.2.4.1
Revise modifying requirements for self-luminous products.

2.20.2.5.6.1 - 2.20.2.5.6.2
Add requirements involving exemptions of byproduct material.

2.20.2.5.6.1 through 2.20.2.5.6.2
Revise clarifying references.

2.20.2.8
Adds requirements for certain items containing byproduct material.

2.29.1
Revise modifying requirements for evaluation request of sealed sources and devices.

2.29.2 - Revise 2.29.2 modifying requirements concerning request of review for sealed sources and devices.

2.29.3
Revise modifying requirements concerning evaluation of sealed sources and devices.

2.29.4
Revise modifying requirements for issuance of certificate concerning sealed sources and devices.

2.29.6 - 2.29.6.2.3
Add requirements for the authority to manufacture or initially distribute a sealed source or device without the issuance of a certificate of registration.

2.29.7
Add requirements for additional review ensuring compliance with regulatory standards.

2.29.8 - 2.29.8.3
Add requirements for the inactivation of certificate of registration.

3.16.1
Revise modifying requirements for surveys and monitoring.

3.16.1.2.2 - 3.16.1.2.3
Revise clarifying requirements involving surveys and monitoring.

3.16.2
Adds requirements for surveys and monitoring.

3.57.3.3.1
Revise modifying requirements concerning criteria for license termination under restricted conditions..

3.57.3.3.2
Delete.

3.57.3.3.3 & 3.57.3.3.4
Renumber accordingly as 3.57.3.3.2 & 3.57.3.3.3.

3.57.4.3
Add requirements for alternate criteria for license termination.

3.57.6
Revise modifying requirements involving minimization of contamination.

3.57.6
Renumber 3.57.6.1.

3.57.6.2
Add requirements for minimization of contamination.

Appendix G, RHA 3.58
Add paragraph at Appendix G, RHA 3.58, assignment of serial numbers to nationally tracked sources.

5.6.1
Revise for address change at the American National Standards Institute, Inc.

8.4.1
Revise modifying requirements concerning specific licenses for well logging.

11.3.2
Revise modifying requirements concerning specific licenses for irradiators.

Part 12
Add Part 12 to Title A providing requirements concerning the physical protection of byproduct material.

12.6.2.2
Revise clarifying requirements concerning grandfathering during background investigations.

12.7.1.1
Revise clarifying requirements for criminal history records.

12.7.3.1
Revise clarifying requirements the procedures for processing fingerprint checks.

12.7.3.2
Revise to correct phone number.

12.12.4.1
Revise clarifying reference.

12.12.4.9
Delete.

12.20.1 through 12.20.2
Revise clarifying transfer requirements of Category 1 and Category 2 quantities of radioactive material.

12.23.1.1
Revise clarifying requirements for advance notification of shipments of Category 1 and Category 2 quantities of radioactive material.

12.23.3.1 through 12.23.4
Revise clarifying requirements for advance notification of shipments of Category 1 and Category 2 quantities of radioactive material.

12.23.6
Delete.

Instructions: Amend R.61-63 pursuant to each individual instruction provided below with the text of the amendments.

Text:

61-63. Radioactive Materials (Title A).

Revise 1.2.38 "Unrefined and unprocessed ore" as shown.

1.2.38 "Unrefined and unprocessed ore" means ore in its natural form prior to any processing such as grinding, roasting, beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

Delete 1.15.11.

Add 1.15.11 and subparagraphs 1.15.11.1 through 1.15.11.2.8 as shown.

1.15.11 Decommissioning Funding Plan.

1.15.11.1 Each decommissioning funding plan must be submitted for review and approval and must contain:

1.15.11.1.1 A detailed cost estimate for decommissioning, in an amount reflecting:

1.15.11.1.1.1 The cost of an independent contractor to perform all decommissioning activities;

1.15.11.1.1.2 The cost of meeting the RHA 3.57.2 criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of RHA 3.57.3, the cost estimate may be based on meeting the RHA 3.57.3 criteria;

1.15.11.1.1.3 The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination; and

1.15.11.1.1.4 An adequate contingency factor.

1.15.11.1.2 Identification of and justification for using the key assumptions contained in the DCE;

1.15.11.1.3 A description of the method of assuring funds for decommissioning from RHA 1.15.12, including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;

1.15.11.1.4 A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and

1.15.11.1.5 A signed original of the financial instrument obtained to satisfy the requirements of RHA 1.15.12 of this section (unless a previously submitted and accepted financial instrument continue to cover the cost estimate for decommissioning).

1.15.11.2 At the time of license renewal and at intervals not to exceed 3 years, the decommissioning funding plan must be resubmitted with adjustments as necessary to account for changes in costs and the extent of contamination. If the amount of financial assurance will be adjusted downward, this cannot be done until the updated decommissioning funding plan is approved. The decommissioning funding plan must update the information submitted with the original or prior approved plan, and must specifically consider the effect of the following events on decommissioning costs:

1.15.11.2.1 Spills of radioactive material producing additional residual radioactivity in onsite subsurface material;

1.15.11.2.2 Waste inventory increasing above the amount previously estimated;

1.15.11.2.3 Waste disposal costs increasing above the amount previously estimated;

1.15.11.2.4 Facility modifications;

1.15.11.2.5 Changes in authorized possession limits;

1.15.11.2.6 Actual remediation costs that exceed the previous cost estimate;

1.15.11.2.7 Onsite disposal; and

1.15.11.2.8 Use of a settling pond.

Revise 1.15.12 as shown.

1.15.12 The financial instrument must include the licensee's name, license number, and docket number; and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:

Revise 2.3.1 as shown.

2.3.1 A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and Federal, State, and local government agencies to receive, possess, use, and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities:

Add subparagraphs 2.3.1.1 through 2.3.1.4 as shown.

2.3.1.1 No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year. Persons possessing source material in excess of these limits as of August 27, 2013, may continue to possess up to 7 kg (15.4 lb) of uranium and thorium at any one time for one year beyond this date, or until the Department takes final action on a pending application submitted on or before August 27, 2014, for a specific license for such material; and receive up to 70 kg (154 lb) of uranium or thorium in any one calendar year until December 31, 2014, or until the Department takes final action on a pending application submitted on or before August 27, 2014, for a specific license for such material; and

2.3.1.2 No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this paragraph unless it is accounted for under the limits of RHA 2.3.1.1; or

2.3.1.3 No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this paragraph; or

2.3.1.4 No more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this paragraph may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.

Revise 2.3.2 as shown.

2.3.2 Any person who receives, possesses, uses, or transfers source material in accordance with the general license in RHA 2.3.1:

Add subparagraphs 2.3.2.1 through 2.3.2.4 as shown.

2.3.2.1 Is prohibited from administering source material, or the radiation there from, either externally or internally, to human beings except as may be authorized by the Department in a specific license.

2.3.2.2 Shall not abandon such source material. Source material may be disposed of as follows:

2.3.2.2.1 A cumulative total of 0.5 kg (1.1 lb) of source material in a solid, non-dispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license to persons receiving the material for permanent disposal. The recipient of source material transferred under the provisions of this paragraph is exempt from the requirements to obtain a license

under this part to the extent the source material is permanently disposed. This provision does not apply to any person who is in possession of source material under a specific license issued underthis chapter; or

2.3.2.2.2 In accordance with RHA 3.27.

2.3.2.3 Is subject to the provisions in Part II of Title A.

2.3.2.4 Shall not export such source material except in accordance with 10 CFR Part 110.

Add 2.3.3 through 2.3.5 as shown, renumber current 2.3.3 thru 2.3.4.4.2 accordingly.

2.3.3 Any person who receives possesses, uses, or transfers source material in accordance with RHA 2.3.1 shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the Department about such contamination and may consult with the Department as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in RHA 3.57.2.

2.3.4 Any person who receives, possesses, uses, or transfers source material in accordance with the general license granted in RHA 2.3.1 is exempt from the provisions of Parts III and VI of this Regulation to the extent that such receipt, possession, use, and transfer are within the terms of this general license, except that such person shall comply with the provisions of RHA 3.27 and 3.57.2 to the extent necessary to meet the provisions of RHA 2.3.2.2 and 2.3.3. However, this exemption does not apply to any person who also holds a specific license issued under this Part.

2.3.5 No person may initially transfer or distribute source material to persons generally licensed under RHA 2.3.1.1 and 2.3.1.2, or equivalent regulations of an Agreement State, unless authorized by a specific license issued in accordance with RHA 2.6 or equivalent provisions of an Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample. Initial distribution of source material to persons generally licensed by RHA 2.3.1 of this section before August 27, 2013, without specific authorization may continue for 1 year beyond this date. Distribution may also be continued until the Department takes final action on a pending application for license or license amendment to specifically authorize distribution submitted on or before August 27, 2014.

Revise subparagraphs 2.4.2.2 through 2.4.2.2.3 as shown.

2.4.2.2 The general license in RHA 2.4.2.1 applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in the subparagraphs below. The devices must have been received from one of the specific licensees described in the following subparagraphs or through a transfer made under RHA 2.4.2.3.8 of this part:

2.4.2.2.1 A specific license issued under Part 2 of this Regulation; or

2.4.2.2.2 An equivalent specific license issued by an Agreement State; or

2.4.2.2.3 An equivalent specific license issued by a State with provisions comparable to Part 2 of this Regulation.

Delete 2.5.7 and subparagraphs 2.5.7.1 through 2.5.7.3.2.

Add 2.5.7 and subparagraphs 2.5.7.1 through 2.5.7.4 as shown.

2.5.7 Application for a specific license in form of sealed source.

2.5.7.1 Except as provided in RHA 2.5.7.2, 2.5.7.3, and 2.5.7.4, an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either--

2.5.7.1.1 Identify the source or device by manufacturer and model number as registered with the Department under RHA 2.29 or comparable regulation, or for a source or a device containing radium 226 or accelerator-produced radioactive material with a State under provisions comparable to RHA 2.29; or

2.5.7.1.2 Contain the information identified in RHA 2.29.

2.5.7.2 For sources or devices manufactured before October 23, 2012 that are not registered with the Commission under 10 CFR 32.210 or with an Agreement State, and for which the applicant is unable to provide all categories of information specified in RHA 2.29, the application must include:

2.5.7.2.1 All available information identified in RHA 2.29 concerning the source, and, if applicable, the device; and

2.5.7.2.2 Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.

2.5.7.3 For sealed sources and devices allowed to be distributed without registration of safety information in accordance with RHA 2.29, the applicant may supply only the manufacturer, model number, and radionuclide and quantity.

2.5.7.4 If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.

Add 2.7.1.1.6 as shown.

2.7.1.1.6 The device has been registered in the Sealed Source and Device Registry.

Revise 2.7.1.1.2.2 for clarification.

2.7.1.1.2.2 Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive in one year a dose in excess of 10% of the annual limits specified in RHA 3.5.1; and

Revise 2.7.1.1.3.3 for clarification.

2.7.1.1.3.3 The information called for in the following statement in the same or substantially similar form:

Receipt, possession, use, and transfer of this device Model[3]*, Serial No [3]*, containing (Identity and quantity of radioactive material) are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.

CAUTION-RADIOACTIVE MATERIAL

_____

(Name of manufacturer or initial transferor)[3*]

Revise 2.7.5.2.5 through 2.7.5.2.5.6 as shown:

2.7.5.2.5 Shall provide to the Department:

2.7.5.2.5.1 A copy of each individual's certification by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State as specified in Part 4 of this Regulation with the written attestation signed by a preceptor as required by Part 4 of this Regulation; or

2.7.5.2.5.2 The Commission or Agreement State license; or

2.7.5.2.5.3 Commission master materials licensee permit; or

2.7.5.2.5.4 The permit issued by a licensee or Commission master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

2.7.5.2.5.5 Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

2.7.5.2.5.6 A copy of the State pharmacy licensure or registration, no later than 30 days after the date that the licensee allows, under paragraphs RHA 2.7.5.2.2.1 and 2.7.5.2.2.3, the individual to work as an authorized nuclear pharmacist.

Add 2.7.7.1.4 as shown.

2.7.7.1.4 The source or device has been registered in the Sealed Source and Device Registry.

Revise 2.7.8.1.4.2 as shown.

2.7.8.1.4.2 The source has been subjected to and has satisfactorily passed the appropriate tests prescribed by 2.7.8.4.

Add subparagraphs 2.7.13.1.5 through 2.7.13.1.5.4 as shown.

2.7.13.1.5 The applicant shall subject at least five prototypes of each source that is designed to contain more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 to tests as follows:

2.7.13.1.5.1 The initial quantity of radioactive material deposited on each source is measured by direct counting of the source.

2.7.13.1.5.2 The sources are subjected to tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment or binding of americium-241 or radium-226, such as physical handling, moisture, and water immersion.

2.7.13.1.5.3 The sources are inspected for evidence of physical damage and for loss of americium-241 or radium-226, after each stage of testing, using methods of inspection adequate for determining compliance with the criteria in RHA 2.7.8.1.5.4.

2.7.13.1.5.4 Source designs are rejected for which the following has been detected for any unit: removal of more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 from the source or any other evidence of physical damage.

Revise 2.7.13.3 as shown.

2.7.13.3 Each person licensed under RHA 2.7.8 shall perform a dry wipe test upon each source containing more than 3.7 kilobecquerels (0.1 microcurie) of Americium-241 or Radium-226 before transferring the source to a general licensee under RHA 2.4.5, or comparable regulation. This test shall be performed by wiping the entire radioactive surface of the source with a filter paper with the application of moderate finger pressure. The radioactivity on the paper shall be measured by using methods capable of detecting 0.185 kilobecquerel (0.005 microcurie) of Americium-241 or Radium-226. If a source has been shown to be leaking or losing more than 0.185 kilobecquerel (0.005 microcurie) of americium-241 or radium-226 by the methods described in this section, the source must be rejected and must not be transferred to a general licensee RHA 2.4.5 or comparable regulation.

Add 2.7.14 and subparagraphs 2.7.14.1 through 2.7.14.8.2 as shown.

2.7.14 Luminous safety devices for use in aircraft: Requirements for license to manufacture, assemble, repair or initially transfer. An application for a specific license to manufacture, assemble, repair or initially transfer luminous safety devices containing tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under RHA 2.4.4, will be approved if:

2.7.14.1 The applicant satisfies the general requirements specified in RHA 2.6;

2.7.14.2 The applicant submits sufficient information regarding each device pertinent to evaluation of the potential radiation exposure, including:

2.7.14.2.1 Chemical and physical form and maximum quantity of tritium or promethium-147 in each device;

2.7.14.2.2 Details of construction and design;

2.7.14.2.3 Details of the method of binding or containing the tritium or promethium-147;

2.7.14.2.4 Procedures for and results of prototype testing to demonstrate that the tritium or promethium 147 will not be released to the environment under the most severe conditions likely to be encountered in normal use;

2.7.14.2.5 Quality assurance procedures to be followed that are sufficient to ensure compliance with § 32.55;

2.7.14.2.6 Any additional information, including experimental studies and tests, required by the Department to facilitate a determination of the safety of the device.

2.7.14.3 Each device will contain no more than 10 curies of tritium or 300 millicuries of promethium 147. The levels of radiation from each device containing promethium-147 will not exceed 0.5 millirad per hour at 10 centimeters from any surface when measured through 50 milligrams per square centimeter of absorber.

2.7.14.4 The Department determines that:

2.7.14.4.1 The method of incorporation and binding of the tritium or promethium-147 in the device is such that the tritium or promethium-147 will not be released under the most severe conditions which are likely to be encountered in normal use and handling of the device;

2.7.14.4.2 The tritium or promethium-147 is incorporated or enclosed so as to preclude direct physical contact by any person with it;

2.7.14.4.3 The device is so designed that it cannot easily be disassembled; and

2.7.14.4.4 Prototypes of the device have been subjected to and have satisfactorily passed the tests required by 2.7.14.5.

2.7.14.5 The applicant shall subject at least five prototypes of the device to tests as follows:

2.7.14.5.1 The devices are subjected to tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment of tritium or promethium-147, such as temperature, moisture, absolute pressure, water immersion, vibration, shock, and weathering.

2.7.14.5.2 The devices are inspected for evidence of physical damage and for loss of tritium or promethium-147, after each stage of testing, using methods of inspection adequate for determining compliance with the criteria in RHA 2.7.14.5.3.

2.7.14.5.3 Device designs are rejected for which the following has been detected for any unit:

2.7.14.5.3.1 A leak resulting in a loss of 0.1 percent or more of the original amount of tritium or promethium-147 from the device; or

2.7.14.5.3.2 Surface contamination of tritium or promethium-147 on the device of more than 2,200 disintegrations per minute per 100 square centimeters of surface area; or

2.7.14.5.3.3 Any other evidence of physical damage.

2.7.14.6 The device has been registered in the Sealed Source and Device Registry.

2.7.14.7 Quality assurance and prohibition of transfer for luminous safety devices for use in aircraft.

2.7.14.7.1 Each person licensed under RHA 2.7.14 shall visually inspect each device and shall reject any that has an observable physical defect that could adversely affect containment of the tritium or promethium-147.

2.7.14.7.2 Each person licensed under RHA 2.7.14 shall:

2.7.14.7.2.1 Maintain quality assurance systems in the manufacture of the luminous safety device in a manner sufficient to provide reasonable assurance that the safety-related components of the distributed devices are capable of performing their intended functions; and

2.7.14.7.2.2 Subject inspection lots to acceptance sampling procedures, by procedures specified in paragraph (c) of this section and in the license issued under RHA 2.7.14, to provide at least 95 percent confidence that the Lot Tolerance Percent Defective of 5.0 percent will not be exceeded.

2.7.14.7.3 The licensee shall subject each inspection lot to:

2.7.14.7.3.1 Tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment of tritium or promethium-147, such as absolute pressure and water immersion.

2.7.14.7.3.2 Inspection for evidence of physical damage, containment failure, or for loss of tritium or promethium-147 after each stage of testing, using methods of inspection adequate for applying the following criteria for defective:

2.7.14.7.3.2.1 A leak resulting in a loss of 0.1 percent or more of the original amount of tritium or promethium-147 from the device;

2.7.14.7.3.2.2 Levels of radiation in excess of 5 microgray (0.5 millirad) per hour at 10 centimeters from any surface when measured through 50 milligrams per square centimeter of absorber, if the device contains promethium-147; and

2.7.14.7.3.2.3 Any other criteria specified in the license issued under RHA 2.7.14.

2.7.14.7.4 No person licensed under RHA 2.7.14 shall transfer to persons generally licensed under RHA 2.4.4, or under an equivalent general license of an Agreement State:

2.7.14.7.4.1 Any luminous safety device tested and found defective under any condition of a license issued under RHA 2.7.14, or RHA 2.7.14.8, unless the defective luminous safety device has been repaired or reworked, retested, and determined by an independent inspector to meet the applicable acceptance criteria; or

2.7.14.7.4.2 Any luminous safety device contained within any lot that has been sampled and rejected as a result of the procedures in RHA 2.7.14.8.2, unless:

2.7.14.7.4.2.1 A procedure for defining sub-lot size, independence, and additional testing procedures is contained in the license issued under RHA 2.7.14; and

2.7.14.7.4.2.2 Each individual sub-lot is sampled, tested, and accepted in accordance with RHA 2.7.14.8.2 and RHA 2.7.14.10.2.1 and any other criteria that may be required as a condition of the license issued under RHA 2.7.14.

2.7.14.8 Material transfer reports for luminous safety devices for use in aircraft.

2.7.14.8.1 Each person licensed under RHA 2.7.14 shall file an annual report with the Director, Division of Radioactive Material, Bureau of Radiological Health, which must state the total quantity of tritium or promethium-147 transferred to persons generally licensed under RHA 2.4.4. The report must identify each general licensee by name, state the kinds and numbers of luminous devices transferred, and specify the quantity of tritium or promethium-147 in each kind of device. Each report must cover the year ending June 30 and must be filed within thirty (30) days thereafter. If no transfers have been made to persons generally licensed under RHA 2.4.4 during the reporting period, the report must so indicate.

2.7.14.8.2 Each person licensed under RHA 2.7.14 shall report annually all transfers of devices to persons for use under a general license in an NRC or Agreement State's regulations that are equivalent to RHA 2.4.4 to the responsible Agreement State agency. The report must state the total quantity of tritium or promethium-147 transferred, identify each general licensee by name, state the kinds and numbers of luminous devices transferred, and specify the quantity of tritium or promethium-147 in each kind of device. If no transfers have been made to a particular NRC licensee or Agreement State during the reporting period, this information must be reported to the NRC or responsible Agreement State agency upon request of the Department.

Add 2.7.15 and subparagraphs 2.7.15.1 through 2.7.15.7 as shown.

2.7.15 Ice detection devices containing strontium-90; requirements for license to manufacture or initially transfer. An application for a specific license to manufacture or initially transfer ice detection devices containing strontium-90 for distribution to persons generally licensed under RHA 2.4.7 will be approved if:

2.7.15.1 The applicant satisfies the general requirements specified in RHA 2.6

2.7.15.2 The applicant submits sufficient information regarding each type of device pertinent to evaluation of the potential radiation exposure, including:

2.7.15.2.1 Chemical and physical form and maximum quantity of strontium-90 in the device;

2.7.15.2.2 Details of construction and design of the source of radiation and its shielding;

2.7.15.2.3 Radiation profile of a prototype device;

2.7.15.2.4 Procedures for and results of prototype testing of devices to demonstrate that the strontium90 contained in each device will not be released or be removed from the device under the most severe conditions likely to be encountered in normal handling and use;

2.7.15.2.5 Details of quality control procedures to be followed in manufacture of the device;

2.7.15.2.6 Description of labeling to be affixed to the device;

2.7.15.2.7 Instructions for handling and installation of the device;

2.7.15.2.8 Any additional information, including experimental studies and tests, required by the Department to facilitate a determination of the safety of the device;

2.7.15.3 Each device will contain no more than 50 microcuries of strontium-90 in an insoluble form;

2.7.15.4 Each device will bear durable, legible labeling which includes the radiation caution symbol prescribed by Part 3, a statement that the device contains strontium-90 and the quantity thereof, instructions for disposal and statements that the device may be possessed pursuant to a general license, that the manufacturer or civil authorities should be notified if the device is found, that removal of the labeling is prohibited and that disassembly and repair of the device may be performed only by a person holding a specific license to manufacture or service such devices;

2.7.15.5 The Department determines that:

2.7.15.5.1 The method of incorporation and binding of the strontium-90 in the device is such that the strontium-90 will not be released from the device under the most severe conditions which are likely to be encountered in normal use and handling of the device;

2.7.15.5.2 The strontium-90 is incorporated or enclosed so as to preclude direct physical contact by any individual with it and is shielded so that no individual will receive a radiation exposure to a major portion of his body in excess of 0.5 rem in a year under ordinary circumstances of use;

2.7.15.5.3 The device is so designed that it cannot be easily disassembled;

2.7.15.5.4 Prototypes of the device have been subjected to and have satisfactorily passed the tests required by RHA 2.7.15.6 of this section.

2.7.15.5.5 Quality control procedures have been established to satisfy the requirements of 10 CFR 32.62.

2.7.15.6 The applicant shall subject at least five prototypes of the device to tests as follows:

2.7.15.6.1 The devices are subjected to tests that adequately take into account the individual, aggregate, and cumulative effects of environmental conditions expected in service that could adversely affect the effective containment of strontium-90, such as temperature, moisture, absolute pressure, water immersion, vibration, shock, and weathering.

2.7.15.6.2 The devices are inspected for evidence of physical damage and for loss of strontium- 90 after each stage of testing, using methods of inspection adequate for determining compliance with the criteria in RHA 2.7.15.6.3.

2.7.15.6.3 Device designs are rejected for which the following has been detected for any unit:

2.7.15.6.3.1 A leak resulting in a loss of 0.1 percent or more of the original amount of strontium-90 from the device; or

2.7.15.6.3.2 Surface contamination of strontium-90 on the device of more than 2,200 disintegrations per minute per 100 square centimeters of surface area; or

2.7.15.6.3.3 Any other evidence of physical damage.

2.7.15.7 The device has been registered in the Sealed Source and Device Registry.

Add 2.7.16 and subparagraphs 2.7.16.1 through 2.7.16.2.5 as shown.

2.7.16 Requirements for license to initially transfer source material for use under the 'small quantities of source material' general license

2.7.16.1 An application for a specific license to initially transfer source material for use under RHA 2.3, or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State, will be approved if:

2.7.16.1.1 The applicant satisfies the general requirements specified in RHA 2.6; and

2.7.16.1.2 The applicant submits adequate information on, and the Department approves the methods to be used for quality control, labeling, and providing safety instructions to recipients.

2.7.16.2 Conditions of licenses to initially transfer source material for use under the 'small quantities of source material' general license: Quality control, labeling, safety instructions, and records and reports

2.7.16.2.1 Each person licensed under RHA 2.7.16 shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "radioactive material."

2.7.16.2.2 Each person licensed under RHA 2.7.16 shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.

2.7.16.2.3 Each person licensed under RHA 2.7.16 shall provide the information specified in this paragraph to each person to whom source material is transferred for use under RHA 2.3, or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State provisions. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:

2.7.16.2.3.1 A copy of RHA 2.3 and RHA 2.18, or relevant equivalent regulations of the Agreement State.

2.7.16.2.3.2 Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the material.

2.7.16.2.4 Each person licensed under RHA 2.7.16 shall report transfers as follows:

2.7.16.2.4.1 File a report with the Department. The report shall include the following information:

2.7.16.2.4.1.1 The name, address, and license number of the person who transferred the source material;

2.7.16.2.4.1.2 For each general licensee under RHA 2.3,or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State provisions, to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and

2.7.16.2.4.1.3 The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.

2.7.16.2.4.2 File a report with each responsible Agreement State agency that identifies all persons, operating under provisions equivalent to RHA 2.3, to whom greater than 50 grams (0.11 lb) of source material has been transferred within a single calendar quarter. The report shall include the following information specific to those transfers made to the Agreement State being reported to:

2.7.16.2.4.2.1 The name, address, and license number of the person who transferred the source material; and

2.7.16.2.4.2.2 The name and address of the general licensee to whom source material was distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred.

2.7.16.2.4.2.3 The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients within the Agreement State.

2.7.16.2.4.3 Submit each report by January 31 of each year covering all transfers for the previous calendar year. If no transfers were made to persons generally licensed under RHA 2.3, or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State provisions, during the current period, a report shall be submitted to the Department indicating so. If no transfers have been made to general licensees during the reporting period, this information shall be reported to the Department upon request.

2.7.16.2.5 Each person licensed under RHA 2.7.16 shall maintain all information that supports the reports required concerning each transfer to a general licensee for a period of 1 year after the event is included in a report to the Department.

Delete 2.10.2.

Add 2.10.2.1 through 2.10.2.2.2 as shown.

2.10.2 Specific license transfer requirements.

2.10.2.1 No license issued or granted pursuant to the regulations in Parts II, VII, and XI nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly

or indirectly, through transfer of control of any license to any person, unless the Department shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.

2.10.2.2 An application for transfer of license must include:

2.10.2.2.1 The identity, technical and financial qualifications of the proposed transferee; and

2.10.2.2.2 Financial assurance for decommissioning information required by RHA 1.15.

Revise 2.10.6.2 as shown.

2.10.6.2 An entity (as that term is defined in 11 U.S.C. 101 (15)) controlling the licensee or listing the license or licensee as property of the estate; or

Revise 2.11.11.4 as shown.

2.11.11.4 Records required by RHA 3.34.5 and 3.34.7 have been received.

Revise 2.15 as shown.

RHA 2.15 INALIENABILITY OF LICENSES

2.15.1 No license issued or granted under these regulations and no right to possess or utilize radioactive material granted by any license issued pursuant to these regulations shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, indirectly or directly through transfer of control of any license to any person unless the Department shall, after securing full information, find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

Add 2.15.2 and subparagraphs 2.15.2.1 through 2.15.2.2 as shown.

2.15.2 An application for transfer of license must include:

2.15.2.1 The identity, technical and financial qualifications of the proposed transferee; and

2.15.2.2 Financial assurance for decommissioning information required by RHA 1.15.

Revise 2.20.1.3 as shown.

2.20.1.3 Any person is exempt from the requirements for a license set forth in the Act and from the regulations in Parts III and VI of Title A to the extent that such person receives, possesses, uses, or transfers:

Revise 2.20.1.3.2 as shown.

2.20.1.3.2 Source material contained in the following products; (1) glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent by weight source material; (2) piezoelectric ceramic containing not more than 2 percent by weight source material; (3) glassware containing not more than 2 percent by weight source material or, for glassware manufactured before August 27, 2013, 10 percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in constructions; and (4) glass enamel or glass enamel frit containing not more than 10 percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States before July 25, 1983.

Delete 2.20.1.3.5.1 and renumber 2.20.1.3.5.2 thru 2.20.1.3.5.4, accordingly.

Revise Footnote 5 (2.20.1.3.5.3) as shown.

[5]The requirements specified in subdivisions RHA 2.20.1.3.5.1 and 2.20.1.3.5.2 need not be met by counterweights manufactured prior to December 31, 1969; provided, that such counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend required by RHA 2.20.1.3.5.2 in effect on June 30, 1969.

Revise subparagraphs 2.20.1.3.7 through 2.20.1.3.7.2 as shown.

2.20.1.3.7 Thorium or uranium contained in or on finished optical lenses and mirrors, provided that each lens or mirror does not contain more than 10 percent by weight of thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium. The exemption contained in this subparagraph (2.20.1.3.7) shall not be deemed to authorize either:

2.20.1.3.7.1 The shaping, grinding, or polishing of such lenses or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror; or

2.20.1.3.7.2 The receipt, possession, use or transfer of uranium or thorium contained in contact lenses, or in spectacles, or in eyepieces in binoculars or other optical instruments.

Add subparagraphs 2.20.1.3.10 through 2.20.1.3.10.2 as shown.

2.20.1.3.10 No person may initially transfer for sale or distribution a product containing source material to persons exempt under RHA 2.20.1.3, or equivalent regulations unless authorized by a specific license to initially transfer such products for sale or distribution.

2.20.1.3.10.1 Persons initially distributing source material in products covered by the exemptions in RHA 2.20.1.3 before August 27, 2013, without specific authorization may continue such distribution for 1 year beyond this date. Initial distribution may also be continued until the Department takes final action on a pending application for license or license amendment to specifically authorize distribution submitted no later than 1 year beyond this date.

2.20.1.3.10.2 Persons authorized to manufacture, process, or produce these materials or products containing source material by the NRC or an Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a specific license for distribution only and are exempt from the requirements of Parts III and VI of Title A, and RHA 2.6.1 and 2.6.2.

Revise 2.20.2.2.1.8 as shown.

2.20.2.2.1.8 1 microcurie (37 kBq) of Radium-226 timepiece in intact timepieces manufactured prior to November 30, 2007.

Add subparagraphs 2.20.2.2.10 through 2.20.2.2.12 as shown.

2.20.2.2.10 Static elimination devices which contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq (500 µCi) of polonium-210 per device.

2.20.2.2.11 Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq (500 µCi) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.

2.20.2.2.12 Such devices authorized before October 23, 2012 for use under the general license then provided in 10 CFR 31.3 and equivalent regulations of Agreement States and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the Department.

Add subparagraph 2.20.2.2.13 as shown.

2.20.2.2.13 Any person who desires to apply byproduct material to, or to incorporate byproduct material into, the products exempted in RHA 2.20.2.2, or who desires to initially transfer for sale or distribution such products containing byproduct material, should apply for a specific license RHA 2.5, which license states that the product may be distributed by the licensee to persons exempt from the regulations pursuant to RHA 2.20.2.2.

Revise subparagraphs 2.20.2.3 through 2.20.2.3.1 as shown.

2.20.2.3 Gas and aerosol detectors containing byproduct material. Except for persons who manufacture, possess, produce, or initially transfer for sale or distribution gas and aerosol detectors containing byproduct material, any person is exempt from the requirements for a license in these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material in gas and aerosol detectors designed to protect health, safety, or property, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.26 of 10 CFR Part 32 which license authorizes the initial transfer of the product for use under this section. This exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007 in accordance with a specific license issued by a Licensing State with comparable provisions to 10 CFR 32.26 authorizing distribution to persons exempt from regulatory requirements.

Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under RHA 2.20.2.3, should apply for a license under 10 CFR 32.26 and for a certificate of registration in accordance with RHA 2.29.

Revise 2.20.2.4 for clarification.

2.20.2.4 Self-luminous products containing Tritium, Krypton-85, Promethium-147 or Radium except for persons who manufacture, process, ~~or~~ produce, or initially transfer for sale of distribution self-luminous products containing Tritium, Krypton-85, or Promethium-147, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires Tritium, Krypton-85, or Promethium-147 in self-luminous products manufactured, processed, produced, or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.22 of 10 CFR Part 32, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this paragraph 2.20.2.4 does not apply to Tritium, Krypton-85, or Promethium-147 used in products for frivolous purposes or in toys or adornments.

Revise 2.20.2.4.1 as shown.

2.20.2.4.1 Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under RHA 2.20.2.4, should apply for a license pursuant to Section 32.22 of 10 CFR Part 32, and for a certificate of registration in accordance with RHA 2.29.

Add subparagraphs 2.20.2.5.6.1 through 2.20.2.5.6.2 as shown.

2.20.2.5.6.1 Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative

or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in Regulation 61-63, Title A to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued pursuant to Section 32.30 of 10 CFR Part 32, which license authorizes the initial transfer of the device for use under this section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.

2.20.2.5.6.2 Any person who desires to manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material for use under 2.20.2.5.6.1, should apply for a license pursuant to Section 32.30 of 10 CFR Part 32, and for a certificate of registration in accordance with RHA 2.29.

Add 2.20.2.8 as shown.

2.20.2.8 Any person who desires to apply byproduct material to, or to incorporate byproduct material into, the products exempted in RHA 2.20.2.2, or who desires to initially transfer for sale or distribution such products containing byproduct material, should apply for a specific license pursuant to 10 CFR 32.14, which license states that the product may be distributed by the licensee to persons exempt from the regulations pursuant to RHA 2.20.2.2.

Revise 2.29.1 as shown.

2.29.1 Any manufacturer or initial distributor of a sealed source or device containing a sealed source may submit a request to the Department for evaluation of radiation safety information about its product and for its registration.

Revise 2.29.2 as shown.

2.29.2 The request for review must be sent to the Department. The request for a review of a sealed source or a device must include sufficient information about the design, manufacture, prototype testing, quality control program, labeling, proposed uses and leak testing and for a device, the request must also include sufficient information about installation, service and maintenance, operating and safety instructions, and its potential hazards, to provide reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property.

Revise 2.29.3 as shown.

2.29.3 The Department normally evaluates a sealed source or a device using radiation safety criteria in accepted industry standards. If these standards and criteria do not readily apply to a particular case, the Department formulates reasonable standards and criteria with the help of the manufacturer or distributor. The Department shall use criteria and standards sufficient to ensure that the radiation safety properties of the device or sealed source are adequate to protect health and minimize danger to life and property. RHA 2.20 of this part includes specific criteria that apply to certain exempt products and RHA 2.4 includes specific criteria applicable to certain generally licensed devices. RHA 2.7 includes specific provisions that apply to certain specifically licensed items.

Revise 2.29.4 as shown.

2.29.4 After completion of the evaluation, the Department issues a certificate of registration to the person making the request. The certificate of registration acknowledges the availability of the submitted information for inclusion in an application for a specific license proposing use of the product, or concerning use under an exemption from licensing or general license as applicable for the category of certificate.

Add 2.29.6 and subparagraphs 2.29.6.1 through 2.29.6.2.3 as shown.

2.29.6 Authority to manufacture or initially distribute a sealed source or device to specific licensees may be provided in the license without the issuance of a certificate of registration in the following cases:

2.29.6.1 Calibration and reference sources containing no more than:

2.29.6.1.1 37 MBq (1 mCi), for beta and/or gamma emitting radionuclides; or

2.29.6.1.2 0.37 MBq (10 μCi), for alpha emitting radionuclides; or

2.29.6.2 The intended recipients are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in any form in the case of unregistered sources or, for registered sealed sources contained in unregistered devices, are qualified by training and experience and have sufficient facilities and equipment to safely use and handle the requested quantity of radioactive material in unshielded form, as specified in their licenses; and

2.29.6.2.1 The intended recipients are licensed under RHA 2.8, or comparable regulation; or

2.29.6.2.2 The recipients are authorized for research and development; or

2.29.6.2.3 The sources and devices are to be built to the unique specifications of the particular recipient and contain no more than 740 GBq (20 Ci) of tritium or 7.4 GBq (200 mCi) of any other radionuclide.

Add 2.29.7 as shown.

2.29.7 After the certificate is issued, the Department may conduct an additional review as it determines is necessary to ensure compliance with current regulatory standards. In conducting its review, the Department will complete its evaluation in accordance with criteria specified in this section. The Department may request such additional information as it considers necessary to conduct its review and the certificate holder shall provide the information as requested.

Add 2.29.8 and subparagraphs 2.29.8.1 through 2.29.8.3 as shown.

2.29.8 Inactivation of certificates of registration of sealed sources and devices.

2.29.8.1 A certificate holder who no longer manufactures or initially transfers any of the sealed source(s) or device(s) covered by a particular certificate issued by the Department shall request inactivation of the registration certificate. Such a request must be made to the Department and must normally be made no later than two years after initial distribution of all of the source(s) or device(s) covered by the certificate has ceased. However, if the certificate holder determines that an initial transfer was in fact the last initial transfer more than two years after that transfer, the certificate holder shall request inactivation of the certificate within 90 days of this determination and briefly describe the circumstances of the delay.

2.29.8.2 If a distribution license is to be terminated in accordance with RHA 2.11, the licensee shall request inactivation of its registration certificates associated with that distribution license before the Department will terminate the license. Such a request for inactivation of certificate(s) must indicate that the license is being terminated and include the associated specific license number.

2.29.8.3 A specific license to manufacture or initially transfer a source or device covered only by an inactivated certificate no longer authorizes the licensee to initially transfer such sources or devices for use. Servicing of devices must be in accordance with any conditions in the certificate, including in the case of an inactive certificate.

Revise 3.16.1 as shown.

3.16.1 Each licensee shall make or cause to be made, surveys of areas, including the subsurface, that--

Revise subparagraphs 3.16.1.2.2 through 3.16.1.2.3 as shown.

3.16.1.2.2 Concentrations or quantities of residual radioactivity; and

3.16.1.2.3 The potential radiological hazards of the radiation levels and residual radioactivity detected.

Redesignate 3.16.2 through 3.16.3.2 as 3.16.3 through 3.16.4.2.

Add 3.16.2 as shown.

3.16.2 Notwithstanding RHA 3.36.1, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with RHA 1.15.13.

Revise 3.57.3.3.1 as shown.

3.57.3.3.1 Funds placed into a trust_segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;

Delete 3.57.3.3.2 and renumber 3.57.3.3 through 3.57.3.4, accordingly.

Add 3.57.4.3 as shown.

3.57.4.3 Has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site, to assume and carry out responsibilities for any necessary control and maintenance of the site.

Revise 3.57.6 as shown.

3.57.6 Minimization of contamination

3.57.6.1 Applicants for licenses, other than renewals, whose applications are submitted after August 20, 1997, shall describe in the application how facility design and procedures for operation will minimize,to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.

Add 3.57.6.2 as shown.

3.57.6.2 Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in RHA 3.4 and radiological criteria for license termination in RHA 3.57, Appendix F.

Revise opening paragraph for Appendix G, RHA 3.58 as shown.

APPENDIX G

RHA 3.58 NATIONALLY TRACKED SOURCES - SERIALIZATION AND REPORTS OF TRANSACTIONS

Each licensee who manufactures a nationally tracked source after February 6, 2007 shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters. Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report to the National Source Tracking System as specified in paragraphs 3.58.1 through 3.58.5 of this section for each type of transaction.

Revise 5.6.1 as shown.

5.6.1 Each radiographic exposure device, source assembly or sealed source, and all associated equipment must meet the requirements specified in American National Standard N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography," (published as NBS Handbook 136 issued January 1981). This publication has been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a). This publication may be purchased from the American National Standards Institute, Inc., 25 West 43rd Street, New York, New York 10036; Telephone (212) 642-4900. Copies of the document are available for inspection at the Nuclear Regulatory Commission library, 11545 Rockville Pike, Rockville, Maryland, 20852-2738. A copy of the document is also on file at the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC 20408.

Engineering analyses may be submitted by an applicant or licensee to demonstrate the applicability of previously performed testing on similar individual radiography equipment components. Upon review, the Department may find this an acceptable alternative to actual testing of the component pursuant to the referenced standard.

Revise 8.4.1 as shown.

8.4.1 The applicant shall satisfy the general requirements specified in RHA 2.6 of these regulations, as appropriate, and any special requirements contained in this Part.

Revise 11.3.2 as shown.

11.3.2 The applicant shall satisfy the general requirements specified in RHA 2.6 and the requirements contained in this Part.

Add Part XII as shown.

PART XII

PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

Subpart A—General Provisions
12.1 Purpose
12.2 Definitions
12.3 Specific exemptions

Subpart B—Background Investigations and Access Control Program
12.4 Personnel access authorization requirements for Category 1 or Category 2 quantities of radioactive material
12.5 Access authorization program requirements
12.6 Background investigations
12.7 Requirements for criminal history records checks of individuals granted unescorted access to Category 1 or Category 2 quantities of radioactive material

Subpart A --- General Provisions

RHA 12.1 Purpose

This part has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated Category 1 or Category 2 quantity of radioactive material listed in Appendix A to this part. These requirements provide reasonable assurance of the security of Category 1 or Category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this part authorizes possession of licensed material.

RHA 12.2 Definitions. As used in this part:

12.2.1 "**Access control**" means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

12.2.2 "**Aggregated**" means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a Category 2 quantity of radioactive material.

12.2.3 "**Approved individual**" means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with Subpart B and who has completed the training required by RHA 12.12.3.

12.2.4 "**Background investigation**" means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

12.2.5 "**Carrier**" means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

12.2.6 "**Category 1 quantity of radioactive material**" means a quantity of radioactive material meeting or exceeding the Category 1 threshold in Table 1 of Appendix A to this part. This is determined by calculating the ratio of the total activity of each radionuclide to the Category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a Category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

12.2.7 "**Category 2 quantity of radioactive material**" means a quantity of radioactive material meeting or exceeding the Category 2 threshold but less than the Category 1 threshold in Table 1 of Appendix A to this part. This is determined by calculating the ratio of the total activity of each radionuclide to the Category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a Category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

12.2.8 "**Curie**" means that amount of radioactive material which disintegrates at the rate of 37 billion atoms per second.

12.2.9 "**Department**" means the SC Department of Health & Environmental Control or its duly authorized representatives.

12.2.10 "**Diversion**" means the unauthorized movement of radioactive material subject to this part to a location different from the material's authorized destination inside or outside of the site at which the material is used or stored.

12.2.11 "**Escorted access**" means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

12.2.12 "**Fingerprint orders**" means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States that require fingerprints and criminal history records checks for individuals with unescorted access to Category 1 and Category 2 quantities of radioactive material or safeguards information-modified handling.

12.2.13 "**Local law enforcement agency (LLEA)**" means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed Category 1 or Category 2 quantity of radioactive material is used, stored, or transported.

12.2.14 "**Mobile device**" means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

12.2.15 "**Movement control center**" means an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

12.2.16 "**No-later-than arrival time**" means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than-arrival time may not be more than 6 hours after the estimated arrival time for shipments of Category 2 quantities of radioactive material.

12.2.17 "**Reviewing official**" means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the Category 1 or Category 2 quantities of radioactive materials that are possessed by the licensee.

12.2.18 "**Sabotage**" means deliberate damage, with malevolent intent, to a Category 1 or Category 2 quantity of radioactive material, a device that contains a Category 1 or Category 2 quantity of radioactive material, or the components of the security system.

12.2.19 "**Safe haven**" means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

12.2.20 "**Security zone**" means any temporary or permanent area determined and established by the licensee for the physical protection of Category 1 or Category 2 quantities of radioactive material.

12.2.21 "**Telemetric position monitoring system**" means a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

12.2.22 "**Trustworthiness and reliability**" are characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to Category 1 or Category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

12.2.23 "**Unescorted access**" means solitary access to an aggregated Category 1 or Category 2 quantity of radioactive material or the devices that contain the material.

RHA 12.3 Specific exemptions

A licensee that possesses radioactive waste that contains Category 1 or Category 2 quantities of radioactive material is exempt from the requirements of Subparts B, C, and D. Except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the requirements of this part. The licensee shall implement the following requirements to secure the radioactive waste:

12.3.1 Use continuous physical barriers that allow access to the radioactive waste only through established access control points;

12.3.2 Use a locked door or gate with monitored alarm at the access control point;

12.3.3 Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and

12.3.4 Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains Category 1 or Category 2 quantities of radioactive material.

Subpart B --- Background Investigations and Access Authorization Program

RHA 12.4 Personnel access authorization requirements for Category 1 or Category 2 quantities of radioactive material

12.4.1 General.

12.4.1.1 Each licensee that possesses an aggregated quantity of radioactive material at or above the Category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of Subpart B.

12.4.1.2 An applicant for a new license and each licensee that would become newly subject to the requirements of Subpart B upon application for modification of its license shall implement the requirements of Subpart B, as appropriate, before taking possession of an aggregated Category 1 or Category 2 quantity of radioactive material.

12.4.1.3 Any licensee that has not previously implemented the Security Orders or been subject to the provisions of Subpart B shall implement the provisions of Subpart B before aggregating radioactive material to a quantity that equals or exceeds the Category 2 threshold.

12.4.2 General performance objective. The licensee's access authorization program must ensure that the individuals specified in paragraph RHA 12.4.3.1 of this section are trustworthy and reliable.

12.4.3 Applicability.

12.4.3.1 Licensees shall subject the following individuals to an access authorization program:

12.4.3.1.1 Any individual whose assigned duties require unescorted access to Category 1 or Category 2 quantities of radioactive material or to any device that contains the radioactive material; and

12.4.3.1.2 Reviewing officials.

12.4.3.2 Licensees need not subject the categories of individuals listed in RHA12.8.1.1 through 12.8.1.13 to the investigation elements of the access authorization program.

12.4.3.3 Licensees shall approve for unescorted access to Category 1 or Category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to Category 1 or Category 2 quantities of radioactive material.

12.4.3.4 Licensees may include individuals needing access to safeguards information-modified handling under 10 CFR Part 73 in the access authorization program under Subpart B.

RHA 12.5 Access authorization program requirements

12.5.1 Granting unescorted access authorization.

12.5.1.1 Licensees shall implement the requirements of Subpart B for granting initial or reinstated unescorted access authorization.

12.5.1.2 Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by RHA 12.12.3 before being allowed unescorted access to Category 1 or Category 2 quantities of radioactive material.

12.5.2 Reviewing officials.

12.5.2.1 Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to Category 1 or Category 2 quantities of radioactive materials possessed by the licensee.

12.5.2.2 Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official must be taken by a law enforcement agency, Federal or State agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a State to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with RHA 12.6.2.

12.5.2.3 Reviewing officials must be permitted to have unescorted access to Category 1 or Category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information modified handling.

12.5.2.4 Reviewing officials cannot approve other individuals to act as reviewing officials.

12.5.2.5 A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:

12.5.2.5.1 The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy an reliable by the licensee; or

12.5.2.5.2 The individual is subject to a Category listed in RHA 12.8.1.

12.5.3 Informed consent.

12.5.3.1 Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent must include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of RHA 12.6.2. A signed consent must be obtained prior to any reinvestigation.

12.5.3.2 The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:

12.5.3.2.1 If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and

12.5.3.2.2 The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.

12.5.4 Personal history disclosure.

Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by Subpart B is sufficient cause for denial or termination of unescorted access.

12.5.5 Determination basis.

12.5.5.1 The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of Subpart B.

12.5.5.2 The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of Subpart B and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.

12.5.5.3 The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.

12.5.5.4 The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.

12.5.5.5 Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

12.5.6 Procedures. Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures must include provisions for the notification of individuals who are denied unescorted access. The procedures must include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures must contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.

12.5.7 Right to correct and complete information.

12.5.7.1 Prior to any final adverse determination, licensees shall provide each individual subject to Subpart B with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification must be maintained by the licensee for a period of 1 year from the date of the notification.

12.5.7.2 If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D–2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication

directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees must provide at least 10 days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

12.5.8 Records.

12.5.8.1 The licensee shall retain documentation regarding the trustworthiness and reliability o individual employees for 3 years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material.

12.5.8.2 The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.

12.5.8.3 The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.

RHA 12.6 Background investigations

12.6.1 Initial investigation. Before allowing an individual unescorted access to Category 1 or Category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation must encompass at least the 7 years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation must include at a minimum:

12.6.1.1 Fingerprinting and an FBI identification and criminal history records check in accordance with RHA 12.7;

12.6.1.2 Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (*e.g.,* driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with RHA 12.9. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;

12.6.1.3 Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent 7 years before the date of application;

12.6.1.4 Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;

12.6.1.5 Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings,

or children, or any individual who resides in the individual's permanent household. Reference checks under Subpart B must be limited to whether the individual has been and continues to be trustworthy and reliable;

12.6.1.6 The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (*e.g.,* seek references not supplied by the individual); and

12.6.1.7 If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.

12.6.2 Grandfathering.

12.6.2.1 Individuals who have been determined to be trustworthy and reliable for unescorted access to Category 1 or Category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to Category 1 and Category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.

12.6.2.2 Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR Part 73 or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to Category 1 and Category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR Part 73 or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.

12.6.3 Reinvestigations. Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to Category 1 or Category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with RHA 12.7. The reinvestigations must be completed within 10 years of the date on which these elements were last completed.

RHA 12.7 Requirements for criminal history records checks of individuals granted unescorted access to Category 1 or Category 2 quantities of radioactive material

12.7.1 General performance objective and requirements.

12.7.1.1 Except for those individuals listed in RHA 12.8 and those individuals grandfathered under RHA 12.6.2, each licensee subject to the provisions of Subpart B shall fingerprint each individual who is to be permitted unescorted access to Category 1 or Category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the U.S. Nuclear Regulatory Commission for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to Category 1 or Category 2 quantities of radioactive materials for that individual.

12.7.1.2 The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.

12.7.1.3 Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to Category 1 or Category 2 quantities of radioactive materials if:

12.7.1.3.1 The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and

12.7.1.3.2 The previous access was terminated under favorable conditions.

12.7.1.4 Fingerprints do not need to be taken if an individual who is an manufacturer, or supplier has been granted unescorted access to Category 1 or Category 2 quantities of radioactive material, access to safeguards information, or safeguards information modified handling by another licensee, based upon a background investigation conducted under Subpart B, the Fingerprint Orders, or 10 CFR Part 73. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of RHA 12.9.3.

12.7.1.5 Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to Category 1 or Category 2 quantities of radioactive information, or safeguards information modified handling.

12.7.2 Prohibitions.

12.7.2.1 Licensees may not base a final determination to deny an individual unescorted access authorization to Category 1 or Category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

12.7.2.1.1 An arrest more than 1 year old for which there is no information of the disposition of the case; or

12.7.2.1.2 An arrest that resulted in dismissal of the charge or an acquittal.

12.7.2.2 Licensees may not use information received from a criminal history records check obtained under Subpart B in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

12.7.3 Procedures for processing of fingerprint checks.

12.7.3.1 For the purpose of complying with Subpart B, Department licensees shall submit to the U.S. Nuclear Regulatory Commission, Director Division of Facilities and Security U.S NRC 11545 Rockville Pike Rockville, MD 20852-2738 ATTN: Criminal History Program, Mail Stop T-03B46M, one completed, legible standard fingerprint card (Form FD–258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to Category 1 or Category 2 quantities of radioactive material. Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 1–630–829–9565, or by email to *FORMS.Resource@nrc.gov.* Guidance on submitting electronic fingerprints can be found at *http://www.nrc.gov/site-help/esubmittals.html.*

12.7.3.2 Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC.'' (For guidance on making electronic payments, contact the Security Branch, Division of Facilities and Security at 301–415 7513.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public Web site. (To find the current fee amount, go to the

Electronic Submittals page at *http://www.nrc.gov/ site- help/e-submittals.html* and see the link for the Criminal History Program under Electronic Submission Systems.)

12.7.3.3 The U.S. Nuclear Regulatory Commission will forward to the submitting Department licensee all data received from the FBI as a result of the licensee's application(s) for criminal history records checks.

RHA 12.8 Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials

12.8.1 Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to Category 1 or Category 2 quantities of radioactive materials:

12.8.1.1 An employee of the Department who has undergone fingerprinting for a prior U.S. Government criminal history records check;

12.8.1.2 A Member of Congress;

12.8.1.3 An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;

12.8.1.4 The Governor of a State or his or her designated State employee representative;

12.8.1.5 Federal, State, or local law enforcement personnel;

12.8.1.6 State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives;

12.8.1.7 Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act; (8) Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;

12.8.1.9 Emergency response personnel who are responding to an emergency;

12.8.1.10 Commercial vehicle drivers for road shipments of Category 2 quantities of radioactive material;

12.8.1.11 Package handlers at transportation facilities such as freight terminals and railroad yards;

12.8.1.12 Any individual who has an active Federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the Federal security clearance or reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material; and

12.8.1.13 Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to Category 1 or Category 2 quantities of radioactive material. Written verification from the service provider must be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material.

12.8.2 Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last 5 years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check must be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material. These programs include, but are not limited to:

12.8.2.1 National Agency Check;

12.8.2.2 Transportation Worker Identification Credentials (TWIC) under 49 CFR part 1572;

12.8.2.3 Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR part 555;

12.8.2.4 Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR part 73;

12.8.2.5 Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license under 49 CFR part 1572; and

12.8.2.6 Customs and Border Protection's Free and Secure Trade (FAST) Program.

RHA 12.9 Protection of information

12.9.1 Each licensee who obtains background information on an individual under Subpart B shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.

12.9.2 The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to Category 1 or Category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.

12.9.3 The personal information obtained on an individual from a background investigation may be provided to another licensee:

12.9.3.1 Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and

12.9.3.2 The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.

12.9.4 The licensee shall make background investigation records obtained under Subpart B available for examination by an authorized representative of the Department to determine compliance with the regulations and laws.

12.9.5 The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for 3 years from the date the individual no longer requires unescorted access to Category 1 or Category 2 quantities of radioactive material.

RHA 12.10 Access authorization program review

12.10.1 Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of Subpart B and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically (at least annually) review the access program content and implementation.

12.10.2 The results of the reviews, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

12.10.3 Review records must be maintained for 3 years.

Subpart C --- Physical Protection Requirements During Use

RHA 12.11 Security program

12.11.1 Applicability

12.11.1.1 Each licensee that possesses an aggregated Category 1 or Category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of Subpart C.

12.11.1.2 An applicant for a new license and each licensee that would become newly subject to the requirements of Subpart C upon application for modification of its license shall implement the requirements of Subpart C, as appropriate, before taking possession of an aggregated Category 1 or Category 2 quantity of radioactive material.

12.11.1.3 Any licensee that has not previously implemented the Security Orders or been subject to the provisions of Subpart C shall provide written notification to the Department at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the Category 2 threshold.

12.11.2 General performance objective. Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to Category 1 or Category 2 quantities of radioactive material.

12.11.3 Program features. Each licensee's security program must include the program features, as appropriate, described in RHA 12.12, 12.13, 12.14, 12.15, 12.16, 12.17, and 12.18.

RHA 12.12 General security program requirements

12.12.1 Security plan.

12.12.1.1 Each licensee identified in RHA 12.11.1 shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure

the integrated and effective functioning of the security program required by Subpart C. The security plan must, at a minimum:

12.12.1.1.1 Describe the measures and strategies used to implement the requirements of Subpart C; and

12.12.1.1.2 Identify the security resources, equipment, and technology used to satisfy the requirements of Subpart C.

12.12.1.2 The security plan must be reviewed and approved by the individual with overall responsibility for the security program.

12.12.1.3 A licensee shall revise its security plan as necessary to ensure the effective implementation of Department requirements. The licensee shall ensure that:

12.12.1.3.1 The revision has been reviewed and approved by the individual with overall responsibility for the security program; and

12.12.1.3.2 The affected individuals are instructed on the revised plan before the changes are implemented.

12.12.1.4 The licensee shall retain a copy of the current security plan as a record for 3 years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.

12.12.2 Implementing procedures.

12.12.2.1 The licensee shall develop and maintain written procedures that document how the requirements of Subpart C and the security plan will be met.

12.12.2.2 The implementing procedures and revisions to these procedures must be approved in writing by the individual with overall responsibility for the security program.

12.12.2.3 The licensee shall retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure must be retained for 3 years after the record is superseded.

12.12.3 Training.

12.12.3.1 Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training must include instruction in:

12.12.3.1.1 The licensee's security program and procedures to secure Category 1 or Category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;

12.12.3.1.2 The responsibility to report promptly to the licensee any condition that causes or may cause a violation of Department requirements;

12.12.3.1.3 The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material; and

12.12.3.1.4 The appropriate response to security alarms.

12.12.3.2 In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of Category 1 or Category 2 quantities of radioactive material. The extent of the training must be commensurate with the individual's potential involvement in the security of Category 1 or Category 2 quantities of radioactive material.

12.12.3.3 Refresher training must be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training must include:

12.12.3.3.1 Review of the training requirements of RHA 12.12.3 and any changes made to the security program since the last training;

12.12.3.3.2 Reports on any relevant security issues, problems, and lessons learned;

12.12.3.3.3 Relevant results of Department inspections; and

12.12.3.3.4 Relevant results of the licensee's program review and testing and maintenance.

12.12.3.4 The licensee shall maintain records of the initial and refresher training for 3 years from the date of the training. The training records must include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.

12.12.4 Protection of information.

12.12.4.1 Except as provided in 10 CFR 37.43(d)(9), licensees authorized to possess Category 1 or Category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.

12.12.4.2 Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.

12.12.4.3 Before granting an individual access to the security plan or implementing procedures, licensees shall:

12.12.4.3.1 Evaluate an individual's need to know the security plan or implementing procedures; and

12.12.4.3.2 If the individual has not been authorized for unescorted access to Category 1 or Category 2 quantities of radioactive material, safeguards information, or safeguards information modified handling, the licensee must complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in RHA 12.6.1.2 through 12.6.1.7.

12.12.4.4 Licensees need not subject the following individuals to the background investigation elements for protection of information:

12.12.4.4.1 The categories of individuals listed in RHA 12.8.1.1 through 12.8.1.13; or

12.12.4.4.2 Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in RHA 12.6.1.2 through 12.6.1.7, has been provided by the security service provider.

12.12.4.5 The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.

12.12.4.6 Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.

12.12.4.7 When not in use, the licensee shall store its security plan and implementing procedures in a manner to prevent unauthorized access. Information stored in nonremovable electronic form must be password protected.

12.12.4.8 The licensee shall retain as a record for 3 years after the document is no longer needed:

12.12.4.8.1 A copy of the information protection procedures; and

12.12.4.8.2 The list of individuals approved for access to the security plan or implementing procedures.

RHA 12.13 LLEA coordination

12.13.1 A licensee subject to Subpart C shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA must include:

12.13.1.1 A description of the facilities and the Category 1 and Category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with Subpart C; and

12.13.1.2 A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of material.

12.13.2 The licensee shall notify the Department within 3 business days if:

12.13.2.1 The LLEA has not responded to the request for coordination within 60 days of the coordination request; or

12.13.2.2 The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.

12.13.3 The licensee shall document its efforts to coordinate with the LLEA. The documentation must be kept for 3 years.

12.13.4 The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

RHA 12.14 Security zones

12.14.1 Licensees shall ensure that all aggregated Category 1 and Category 2 quantities of radioactive material are used or stored within licensee established security zones. Security zones may be permanent or temporary.

12.14.2 Temporary security zones must be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.

12.14.3 Security zones must, at a minimum, allow unescorted access only to approved individuals through:

12.14.3.1 Isolation of Category 1 and Category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the Category 1 or Category 2 quantities of radioactive material within a security zone; or

12.14.3.2 Direct control of the security zone by approved individuals at all times; or

12.14.3.3 A combination of continuous physical barriers and direct control.

12.14.4 For Category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.

12.14.5 Individuals not approved for unescorted access to Category 1 or Category 2 quantities of radioactive material must be escorted by an approved individual when in a security zone.

RHA 12.15 Monitoring, detection, and assessment

12.15.1 Monitoring and detection.

12.15.1.1 Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.

12.15.1.2 Monitoring and detection must be performed by:

12.15.1.2.1 A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or

12.15.1.2.2 Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or

12.15.1.2.3 A monitored video surveillance system; or

12.15.1.2.4 Direct visual surveillance by approved individuals located within the security zone; or

12.15.1.2.5 Direct visual surveillance by a licensee designated individual located outside the security zone.

12.15.1.3 A licensee subject to Subpart C shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability must provide:

12.15.1.3.1 For Category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability must be provided by:

12.15.1.3.1.1 Electronic sensors linked to an alarm; or

12.15.1.3.1.2 Continuous monitored video surveillance; or

12.15.1.3.1.3 Direct visual surveillance.

12.15.1.3.2 For Category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.

12.15.2 Assessment. Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.

12.15.3 Personnel communications and data transmission. For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:

12.15.3.1 Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and

12.15.3.2 Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.

12.15.4 Response. Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

RHA 12.16 Maintenance and testing

12.16.1 Each licensee subject to Subpart C shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this part must be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing must be performed at least annually, not to exceed 12 months.

12.16.2 The licensee shall maintain records on the maintenance and testing activities for 3 years.

RHA 12.17 Requirements for mobile devices

Each licensee that possesses mobile devices containing Category 1 or Category 2 quantities of radioactive material must:

12.17.1 Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and

12.17.2 For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

RHA 12.18 Security program review

12.18.1 Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of Subpart C and that comprehensive actions are taken to correct any noncompliance that is identified. The review must include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.

12.18.2 The results of the review, along with any recommendations, must be documented. Each review report must identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.

12.18.3 The licensee shall maintain the review documentation for 3 years.

RHA 12.19 Reporting of events

12.19.1 The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a Category 1 or Category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Department. In no case shall the notification to the Department be later than 4 hours after the discovery of any attempted or actual theft, sabotage, or diversion.

12.19.2 The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of Category 1 or Category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the Department.

12.19.3 The initial telephonic notification required by RHA 12.19.1 must be followed within a period of 30 days by a written report submitted to the Department. The report must include sufficient information for Department analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

Subpart D --- Physical Protection in Transit

RHA 12.20 Additional requirements for transfer of Category 1 and Category 2 quantities of radioactive material

A licensee transferring a Category 1 or Category 2 quantity of radioactive material to a licensee of the Department shall meet the license verification provisions listed below instead of those listed in RHA 2.18.4:

12.20.1 Any licensee transferring Category 1 quantities of radioactive material to a licensee of the Department, U.S. Nuclear Regulatory Commission, or an Agreement State, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

12.20.2 Any licensee transferring Category 2 quantities of radioactive material to a licensee of the Department, U.S. Nuclear Regulatory Commission, or an Agreement State, prior to conducting such transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's

license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.

12.20.3 In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification must include the license number, current revision number, issuing agency, expiration date, and for a Category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification must be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day.

12.20.4 The transferor shall keep a copy of the verification documentation as a record for 3 years.

RHA 12.21 Applicability of physical protection of Category 1 and Category 2 quantities of radioactive material during transit.

The shipping licensee shall be responsible for meeting the requirements of Subpart D unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under Subpart D.

RHA 12.22 Preplanning and coordination of shipment of Category 1 or Category 2 quantities of radioactive material

12.22.1 Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a Category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:

12.22.1.1 Preplan and coordinate shipment arrival and departure times with the receiving licensee;

12.22.1.2 Preplan and coordinate shipment information with the governor or the governor's designee of any State through which the shipment will pass to:

12.22.1.2.1 Discuss the State's intention to provide law enforcement escorts; and

12.22.1.2.2 Identify safe havens; and

12.22.1.3 Document the preplanning and coordination activities.

12.22.2 Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a Category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.

12.22.3 Each licensee who receives a shipment of a Category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.

12.22.4 Each licensee, who transports or plans to transport a shipment of a Category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later than arrival time provided pursuant to RHA 12.22.2, shall promptly notify the receiving licensee of the new no-later-than arrival time.

12.22.5 The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for 3 years.

RHA 12.23 Advance notification of shipment of Category 1 quantities of radioactive material.

As specified in RHA 12.23.1 and 12.23.2, each licensee shall provide advance notification to the Department and the governor of a State, or the governor's designee, of the shipment of licensed material in a Category 1 quantity, through or across the boundary of the State, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

12.23.1 Procedures for submitting advance notification.

12.23.1.1 The notification must be made to the Department and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on the NRC's Web site at *http://nrc stp.ornl.gov/special/designee.pdf.* The notification to Department may be made by email to RAMQC_shipments@dhec.sc.gov or by fax to 803-898-0391. Notifications to the Department must be to the Director, Division of Land & Waste Management, Bureau of Waste Management, 2600 Bull Street, Columbia, SC 29201.

12.23.1.2 A notification delivered by mail must be postmarked at least 7 days before transport of the shipment commences at the shipping facility.

12.23.1.3 A notification delivered by any means other than mail must reach the Department at least 4 days before the transport of the shipment commences and must reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the State.

12.23.2 Information to be furnished in advance notification of shipment.

Each advance notification of shipment of Category 1 quantities of radioactive material must contain the following information, if available at the time of notification:

12.23.2.1 The name, address, and telephone number of the shipper, carrier, and receiver of the Category 1 radioactive material;

12.23.2.2 The license numbers of the shipper and receiver;

12.23.2.3 A description of the radioactive material contained in the shipment, including the radionuclides and quantity;

12.23.2.4 The point of origin of the shipment and the estimated time and date that shipment will commence;

12.23.2.5 The estimated time and date that the shipment is expected to enter each State along the route;

12.23.2.6 The estimated time and date of arrival of the shipment at the destination; and

12.23.2.7 A point of contact, with a telephone number, for current shipment information.

12.23.3 Revision notice.

12.23.3.1 The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the State or the governor's designee, and to the Department.

12.23.3.2 A licensee shall promptly notify the governor of the State or the governor's designee of any changes to the information provided in accordance with RHA 12.23.2 and 12.23.3.1 of this section. The licensee shall also immediately notify the Department of any such changes.

12.23.4 Cancellation notice. Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each State or to the governor's designee previously notified and to the Department. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.

12.23.5 Records. The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.

RHA 12.24 Requirements for physical protection of Category 1 and Category 2 quantities of radioactive material during shipment.

12.24.1 Shipments by road.

12.24.1.1 Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a Category 1 quantity of radioactive material shall:

12.24.1.1.1 Ensure that movement control centers are established that maintain position information from a remote location. These control centers must monitor shipments 24 hours a day, 7 days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.

12.24.1.1.2 Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.

12.24.1.1.3 Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center must provide positive confirmation of the location, status, and control over the shipment. The movement control center must be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

12.24.1.1.4 Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.

12.24.1.1.5 Develop written normal and contingency procedures to address:

12.24.1.1.5.1 Notifications to the communication center and law enforcement agencies;

12.24.1.1.5.2 Communication protocols. Communication protocols must include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;

12.24.1.1.5.3 Loss of communications; and

12.24.1.1.5.4 Responses to an actual or attempted theft or diversion of a shipment.

12.24.1.1.6 Each licensee who makes arrangements for the shipment of Category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.

12.24.1.2 Each licensee that transports Category 2 quantities of radioactive material shall maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.

12.24.1.3 Each licensee who delivers to a carrier for transport, in a single shipment, a Category 2 quantity of radioactive material shall:

12.24.1.3.1 Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system must allow the shipper or transporter to identify when anywhere the package was last and when it should arrive at the next point of control.

12.24.1.3.2 Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

12.24.1.3.3 Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

12.24.2 Shipments by rail.

12.24.2.1 Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a Category 1 quantity of radioactive material shall:

12.24.2.1.1 Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.

12.24.2.1.2 Ensure that periodic reports to the communications center are made at preset intervals.

12.24.2.2 Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a Category 2 quantity of radioactive material shall:

12.24.2.2.1 Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system must allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.

12.24.2.2.2 Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and

12.24.2.2.3 Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.

12.24.3 Investigations. Each licensee who makes arrangements for the shipment of Category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a Category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of Category 2 quantities of

radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

RHA 12.25 Reporting of events.

12.25.1 The shipping licensee shall notify the appropriate LLEA and the Department within 1 hour of its determination that a shipment of Category 1 quantities of radioactive material is lost or missing. The appropriate LLEA would be the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by RHA 12.24.3, the shipping licensee will provide agreed upon updates to the Department on the status of the investigation.

12.25.2 The shipping licensee shall notify the Department within 4 hours of its determination that a shipment of Category 2 quantities of radioactive material is lost or missing. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the Department.

12.25.3 The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a Category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the Department upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of Category 1 radioactive material.

12.25.4 The shipping licensee shall notify the Department as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a Category 2 quantity of radioactive material.

12.25.5 The shipping licensee shall notify the Department and the LLEA as soon as possible upon recovery of any lost or missing Category 1 quantities of radioactive material.

12.25.6 The shipping licensee shall notify the Department as soon as possible upon recovery of any lost or missing Category 2 quantities of radioactive material.

12.25.7 The initial telephonic notification required by paragraphs RHA 12.25.1 through 12.25.4 must be followed within a period of 30 days by a written report submitted to the Department. A written report is not required for notifications on suspicious activities required by RHA 12.25.3 and 12.25.4. The report must set forth the following information:

12.25.7.1 A description of the licensed material involved, including kind, quantity, and chemical and physical form;

12.25.7.2 A description of the circumstances under which the loss or theft occurred;

12.25.7.3 A statement of disposition, or probable disposition, of the licensed material involved;

12.25.7.4 Actions that have been taken, or will be taken, to recover the material; and

12.25.7.5 Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

12.25.7.6 Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

Subpart E --- Records

RHA 12.26 Form of records

Each record required by this part must be legible throughout the retention period specified by each Department regulation. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

RHA 12.27 Record retention

Licensees shall maintain the records that are required by the regulations in this part for the period specified by the appropriate regulation. If a retention period is not otherwise specified, these records must be retained until the Department terminates the facility's license. All records related to this part may be destroyed upon Department termination of the facility license.

Appendix A—Category 1 and Category 2 Radioactive Materials

Table 1—Category 1 and Category 2 Threshold

Radioactive material	Category 1(TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

**The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Note: ***Calculations Concerning Multiple Sources or Multiple Radionuclides***
The ''sum of fractions'' methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this part.

I. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides must be determined to verify whether the activity at the location is less than the Category 1 or Category 2 thresholds of Table 1, as appropriate. If the

calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this part apply.

II. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation. Calculations must be performed in metric values (i.e., TBq) and the numerator and denominator values must be in the same units.

R_1 = total activity for radionuclide 1
R_2 = total activity for radionuclide 2
R_n = total activity for radionuclide n
AR_1 = activity threshold for radionuclide 1
AR_2 = activity threshold for radionuclide 2
AR_n = activity threshold for radionuclide n

$$\sum_{1}^{n}\left[\frac{R_1}{AR_1}+\frac{R_2}{AR_2}+\frac{R_n}{AR_n}\right]\geq 1.0$$

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with SC Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11).

DESCRIPTION OF REGULATION: Amendment of R.61-63 Radioactive Materials (Title A).

Purpose: The Department is amending R.61-63, Radioactive Materials (Title A) to maintain conformity with federal requirements and ensure compliance with federal standards as required by Section 274 of the Atomic Energy Act of 1954. In addition, minor corrections and clarifications were made to achieve conformity with prior federal regulations.

Legal Authority: S.C. Code Ann Section 13-7-10 et seq.; 13-7-40.

Plan for Implementation: Upon a finding of need and reasonableness by the Board of Health and Environmental Control and publication in the *State Register* as a final regulation, amended regulations will be provided to the regulated community at cost through the Department's Freedom of Information Office.

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

The Nuclear Regulatory Commission (NRC) promulgates amendments to 10 CFR 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 39, 40, 51, 70, and 71 throughout each calendar year. The State is required to adopt certain federal amendments within three years of the effective date of changes in NRC regulations to maintain conformity and authorization by the NRC for the State Radioactive Waste Management Program. Adoption of the proposed amendments of R.61-63 will enable compliance with recent federal amendments. See purpose above. Recent amendments to 10 CFR for adoption include:

1) Requirements for Decommissioning Planning, 76 FR 35512 on June 17, 2011, (improve decommissioning planning and thereby reduce the likelihood that any current operating facility will become a legacy site).

2) Licenses, Certifications, and Approvals for Materials Licensees, 76 FR 56951 on September 15, 2011, (improve the effectiveness and efficiency of the licensing and approval processes for future materials license applications, as well as to eliminate certain inconsistencies).
3) Technical Corrections, 77 FR 39899 on July 6, 2012, (inform the public of these non-substantive changes).

4) Requirements for Distribution of Byproduct Material, 77 FR 43666 on July 25, 2012, (provide requirements for distributors of byproduct material clearer, less prescriptive, and more risk-informed and up to date and redefining categories of devices to be used under exemptions, adding explicit provisions regarding the sealed source and device registration process, and adding flexibility to the licensing of users of sealed sources and devices).

5) Physical Protection of Byproduct Material, 78 FR 16922 on March 19, 2013, (establishing security requirements for the use and transport of the most risk-significant quantities of radioactive materials (i.e., International Atomic Energy Agency (IAEA) Category 1 and Category 2 quantities of radioactive materials), as well as for shipments of small amounts of irradiated reactor fuel).

6) Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions, 78 FR 32310 on May 29, 2013, (require that the initial distribution of source material to exempt persons or to general licensees be explicitly authorized by a specific license, modify the existing possession and use requirements of the general license for small quantities of source material, and revised, clarified, or deleted certain source material exemptions from licensing.

7) Correct R.61-63 that was previously amended by Document No. 4123 published in the State Register on March 26, 2010 to adopt federal regulations published as final rules in the Federal Register at 71 FR 65685, 72 FR 55864, and 73 FR 42761. The Department is proposing to make minor corrections to 61-63 RHA 2.4, General Licensing Requirements and will add a paragraph at RHA 3.58, Appendix G, Nationally Tracked Sources-Serialization and Reports of Transactions, that was inadvertently omitted in the prior promulgation. These amendments will conform R.61-63 with the federal regulations.

DETERMINATION OF COSTS AND BENEFITS:

This regulatory amendment is exempt from the requirements of a Preliminary Fiscal Impact Statement or a Preliminary Assessment Report because the proposed changes are necessary to maintain compliance with federal regulations. There are no known additional costs to the state and its political subdivisions. Of the six Federal Register amendments, 78 FR 16922 published on March 19, 2013 is estimated to have a one-time cost to licensees of $23,375 and an annual cost of $21,736 to fully implement. The remaining Federal Register amendments are determined to have no significant impact financially.

UNCERTAINTIES OF ESTIMATES:

There are no known uncertainties.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This amendment will provide the updates for Regulation 61-63, as indicated above. The adoption of these regulations will ensure an effective regulatory program for radioactive material users under state jurisdiction and protection of the public and workers from unnecessary exposure to ionizing radiation.

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

The State's ability to implement necessary federal requirements, which are believed to be beneficial to the public health and environment, would not be compatible as mandated by South Carolina's Agreement State status granted by the NRC.

Document No. 4467
DEPARTMENT OF NATURAL RESOURCES
CHAPTER 123
Statutory Authority: 1976 Code Section 50-11-600

123-170. South Carolina State Falconry Regulations

Synopsis:

The South Carolina Department of Natural Resources to repeals Regulation 123-170 and replaces it with current language. This action is necessary because the US Fish and Wildlife Service has delegated the regulation of falconry to the states. Heretofore, a person engaged in falconry was required to possess both a Federal and State permit.

The Notice of Drafting was published in the *State Register* on June 27, 2014.

Instructions:

Regulation 123-170 is modified to read as provided below.

Text:

123-**17**0. South Carolina State Falconry Regulations.

A. Definitions

(1) "Raptor"--means a live migratory bird of the Order Falconiformes or the Order Strigiformes, other than a bald eagle (*Haliaeetus leucocephalus*).

(2) "Take"--means to trap or capture, or attempt to trap or capture a raptor for the purpose of falconry.

(3) "Falconry"--means the hunting of wild quarry in its natural state and habitat by means of a trained bird of prey or raptor (Order Falconiformes or Order Strigiformes) other than a bald eagle.

(4) "Service"--means the U.S. Fish and Wildlife Service, U.S. Dept. of Interior.

(5) "Department"--means the South Carolina Department of Natural Resources.

(6) "Permitted Wildlife Rehabilitator"--means a person or organization that has been permitted by the state or federal government to possess and rehabilitate raptors.

B. Any person who possesses or uses any raptor or hybrid raptor species for falconry must comply with these regulations.

C. A state hunting license, applicable stamps and permits are required before any person may take, or attempt to take, quarry by means of trained raptor.

D. Practicing falconry

(1) A permit is required before any person may take, transport, or possess wild-taken or captive-bred raptors for falconry purposes.

(2) Birds held under permits must be used primarily for falconry.

(3) A person's raptor facilities must pass inspection by the Department before a permit may be granted.

(4) If a person resides for more than 120 consecutive days in South Carolina his or her falconry facilities must meet the standards of these regulations and the facilities must be listed on the falconry permit.

(5) There are three classes of permits to practice falconry: Apprentice, General, and Master Falconer levels.

(6) Anyone who applies for a falconry permit must include the following information:

(a) The completed application.

(b) Proof that the applicant has passed the falconry test administered by the Department, or proof that a falconry permit has previously been held at the level sought.

(c) An original, signed certification that reads as follows: *I certify that I have read and am familiar with the regulations in title 50, part 13, of the Code of Federal Regulations and the other applicable parts of title 50, and that the information I have submitted is complete and accurate to the best of my knowledge and belief.*

(7) Apprentice Falconer

(a) Requirements and possession options for an Apprentice Falconer.

(i) An applicant must be at least 12 years of age.

(ii) If an applicant for an Apprentice Permit is less than 18 years of age, a parent or legal guardian must sign the application.

(iii) An applicant must have a letter from a Master Falconer or a General Falconer with a valid State falconry permit who is at least 18 years old and has at least 2 years experience at the General Falconer level, stating that he or she will assist the Apprentice applicant in:

a. Learning about the husbandry and training of raptors held for falconry;

b. Learning about relevant wildlife laws and regulations, and

c. Deciding what species of raptor is appropriate to possess while an Apprentice.

(iv) An applicant must correctly answer at least 80 percent of the questions on an examination administered by the Department. The examination must cover care and handling of falconry raptors, Federal and State laws and regulations relevant to falconry, and other appropriate subject matter.

(b) An Apprentice may take raptors less than 1 year old, except nestlings, from the wild during any period or periods specified herein. A person may take any raptor species from the wild except a federally listed threatened or endangered species or the following species: Bald eagle *(Haliaeetus leucocephalus),* white-tailed eagle *(Haliaeetus albicilla),* Steller's sea-eagle *(Haliaeetus pelagicus),* golden eagle *(Aquila chrysaetos),* American swallow-tailed kite *(Elanoides forficatus),* Swainson's hawk *(Buteo swainsoni),* peregrine falcon *(Falco peregrinus),* flammulated owl *(Otus flammeolus),* elf owl *(Micrathene whitneyi),* and short-eared owl *(Asio flammeus).*

(i) Regardless of the number of State falconry permits an Apprentice has, he or she may possess no more than one raptor for use in falconry.

(ii) An Apprentice may possess a raptor of any Falconiform or Strigiform species, including wild, captive-bred, or hybrid individuals, except a federally listed threatened or endangered species, a bald eagle (*Haliaeetus leucocephalus*), a white-tailed eagle (*Haliaeetus albicilla*), a Steller's sea-eagle (*Haliaeetus pelagicus*), or a golden eagle (*Aquila chrysaetos*).

(iii) Capture of a wild raptor is not required; it can be transferred by another falconry permittee.

(iv) An Apprentice may not possess a raptor that was taken from the wild as a nestling.

(v) An Apprentice may not possess a bird that is imprinted on humans.

(8) General Falconer

(a) A General Falconer permit applicant must provide the following:

(i) Information documenting his or her experience maintaining falconry raptors, including a summary of what species he or she held as an Apprentice Falconer and how long each bird was possessed, and

(ii) A letter from a General Falconer or Master Falconer (preferably the sponsor) attesting that the applicant has practiced falconry with raptor(s) at the Apprentice Falconer level for at least 2 years, including maintaining, training, flying, and hunting the raptor(s) for at least 4 months in each year.

(b) Requirements and possession options for a General Falconer.

(i) A General Falconer must be at least 16 years of age.

(ii) If 16 or 17 years of age, a parent or legal guardian must sign the application.

(iii) An applicant must submit a document from a General Falconer or Master Falconer (preferably the sponsor) to the Department stating that the applicant has practiced falconry with raptor(s) at the Apprentice Falconer level or equivalent for at least 2 years, including maintaining, training, flying, and hunting the raptor(s) for least 4 months in each year. That practice may include capture and release of falconry raptors.

(iv) An applicant may not substitute any falconry school program or education to shorten the period of 2 years at the Apprentice level.

(v) A General Falconer may take and possess any species of Falconiform or Strigiform except a golden eagle, a bald eagle, a white-tailed eagle, or a Steller's sea-eagle. A General Falconer may use captive-bred individuals and hybrids of the species he or she is allowed to possess.

(vi) Regardless of the number of State falconry permits he or she has a General Falconer may possess no more than 3 raptors.

(9) Master Falconer

(a) A Master Falconer permit applicant must attest that he or she has practiced falconry at the General Falconer level for at least 5 years.

(b) Requirements and possession options for a Master Falconer.

(i) A Master Falconer must have practiced falconry with raptors he or she possessed at the General Falconer level for at least 5 years.

(ii) A Master Falconer may take and possess any species of Falconiform or Strigiform except a bald eagle. However, a Master Falconer may take and possess a golden eagle, a white-tailed eagle, or a Steller's sea eagle only if he or she meets the qualifications set forth under these regulations.

(iii) Regardless of the number of State falconry permits a person has, a Master Falconer may possess no more than 5 wild raptors, including golden eagles.

(iv) A Master Falconer may possess any number of captive-bred raptors. However, the falconer must train them in the pursuit of wild game and use them in hunting.

(c) If a Master Falconer meets the requirements of this section for falconry he or she may possess up to 3 eagles of the following species: golden eagle, white-tailed eagle, or Steller's sea eagle. The Department must document the following before approving any requests to possess an eagle for use in falconry:

(i) Experience in handling large raptors, including information about the species previously handled and the type and duration of the activity.

(ii) At least two letters of reference from people with experience handling and/or flying large raptors such as eagles, ferruginous hawks, goshawks (*Accipiter gentilis*), or great horned owls (*Bubo virginianus*) must be provided. Each must contain a concise history of the author's experience with large raptors, which can include, but is not limited to, handling of raptors held by zoos, rehabilitating large raptors, or scientific studies involving large raptors. Each letter must also assess the person’s ability to care for eagles and fly them in falconry.

(iii) A golden eagle, white-tailed eagle, or Steller's sea-eagle counts as one of the possessed raptors allowed for use in falconry.

(e) Reinstatement of a lapsed falconry permit.

(i) If a permit has lapsed for fewer than 5 years, it may be reinstated at the level held previously if proof of certification at that level is provided.

(ii) If a permit has lapsed for 5 years or longer, a person one must correctly answer at least 80 percent of the questions on an examination administered by the Department. If the person passes the exam, the permit may be reinstated at the level previously held. The facilities must pass State inspection before a falconry bird may be possessed.

(10) Experience and Testing

(a) A person may qualify for the falconry permit appropriate for his/her experience. To demonstrate knowledge of U.S. falconry laws and regulations, a person must correctly answer at least 80 percent of the questions on the supervised examination for falconers administered by the Department. If a person passes the test, the Department will decide for which level of falconry permit he or she is qualified, consistent with the class requirements in of these regulations. To do so, the Department shall base its decision on documentation of experience. The falconry facilities must meet the standards in these regulations before a person may keep a raptor to use in falconry.

(11) Banding or tagging raptors used in falconry.

(a) If a person takes a goshawk, Harris's hawk (*Parabuteo unicinctus*), peregrine falcon (*Falco peregrinus*), or gyrfalcon (*Falco rusticolus*) from the wild or acquires one from another falconer or a rehabilitator, and if the raptor is not already banded, the person must band it with a permanent, nonreusable, numbered U.S. Fish and Wildlife Service leg band that the Department will provide. If a person wishes, he or

she may purchase and implant an ISO (International Organization for Standardization)-compliant (134.2 kHz) microchip in addition to the band. A person must report the band number when he or she reports acquisition of the bird. Contact the Department for information on obtaining and disposing of bands. Within 10 days from the day on which a person takes the raptor from the wild, he or she must report take of the bird by entering the required information (including the band number) in the electronic database at *http://permits.fws.gov/186A* or, if required by the permitting agency, by submitting a paper form 3-186A to the Department. A person may request an appropriate band from the Department in advance of any effort to capture a raptor.

(b) A raptor bred in captivity must be banded with a seamless metal band (*see* §21.30). If a person must remove a seamless band or if it is lost, within 10 days from the day the band is removed or lost, the person must report it and request a replacement U.S. Fish and Wildlife Service nonreusable band from the Department. A person must submit the required information electronically immediately upon rebanding the raptor at *http://permits.fws.gov/186A* or, if required by the permitting agency, by submitting a paper form 3-186A to the Department. A person must replace a seamless band that is removed or lost. A person may implant an ISO-compliant (134.2 kHz) microchip in a falconry raptor in addition to the seamless band.

(c) If the band must be removed or is lost from a raptor, the person who possesses the bird must report the loss of the band within 5 days, and must then do at least one of the following:

(i) Request a U.S. Fish and Wildlife Service nonreusable band from the Department. A person must submit the required information within 10 days of rebanding the raptor at *http://permits.fws.gov/186A* or by submitting a paper form 3-186A to the Department.

(ii) Purchase and implant an ISO-compliant (134.2 kHz) microchip in the bird and report the microchip information at *http://permits.fws.gov/186A* or by submitting a paper form 3-186A form to the Department.

(d) A person may not alter, deface, or counterfeit a band. A person may remove the rear tab on a band on a raptor taken from the wild, and may also smooth any imperfect surface if the integrity of the band or the numbering on it is not affected.

(e) If health or injury problems for a raptor is documented that are caused by the band, the Department may provide an exemption to the requirement for that raptor. In that case, a copy of the exemption paperwork must be kept with the falconer when transporting or flying the raptor. If the bird is a wild goshawk, Harris's hawk, peregrine falcon, or gyrfalcon, the falconer must replace the band with an ISO-compliant microchip that the Service will supply to the Department. The Department will not provide a microchip for a wild goshawk, Harris's hawk, peregrine falcon, or gyrfalcon unless the falconer has demonstrated that a band causes an injury or a health problem for the bird.

(f) A person may not band a raptor removed from the wild with a seamless numbered band.

(12) Possession of Permits.

(a) A falconer must have his or her permit(s) or legible copies of them in his/her immediate possession if he or she is not at the location of the falconry facilities and he or she is trapping, transporting, working with, or flying a falconry raptor(s).

(b) If a person has a valid falconry permit, he or she may possess and transport for falconry purposes a lawfully possessed raptor within this state.

(13) Facilities that must be possessed and maintained.

(a) A person must keep all raptors held under a falconry permit in humane and healthful conditions.

(b) Whether the raptor facilities are indoors (a “mews”) or outdoors (a “weathering area”), the raptor facilities must protect raptors from the environment, predators, and domestic animals. A falconer is responsible for the maintenance and security (protection from predators) of raptors possessed under his/her permit.

(c) A person must have raptor housing facilities approved by the Department before he or she may obtain a bird to use in falconry.

(d) The facility must have a suitable perch for each raptor, at least one opening for sunlight, and must provide a healthy environment for raptors inside.

(e) A person may house un-tethered raptors together if they are compatible with each other.

(f) Each raptor must have an area large enough to allow it to fly if it is untethered or, if tethered, to fully extend its wings or bate (attempt to fly while tethered) without damaging its feathers or contacting other raptors.

(g) Each falconry bird must have access to a pan of clean water unless weather conditions, the perch type used, or some other factor makes access to a water pan unsafe for the raptor.

(h) An indoor facility must be large enough to allow easy access for the care and feeding of raptors kept there.

(i) If raptors housed in this indoor facility are not tethered, all walls that are not solid must be protected on the inside. Suitable materials may include vertical bars spaced narrower than the width of the body of the smallest raptor housed in the enclosure. However, heavy-duty netting or other such materials may be used to cover the walls or roof of the enclosure.

(j) Acceptable indoor facilities include shelf perch enclosures where raptors are tethered side by side. Other innovative housing systems are acceptable if they provide the enclosed raptors with protection and allow them to maintain healthy feathers.

(k) An eyas raptor may be kept in any suitable container or enclosure until it is capable of flight.

(l) A person may keep a falconry raptor or raptors inside his or her place of residence if a suitable perch or perches are provided. If a raptor(s) is housed inside a home, the windows or other openings of the structure do not have to be modified. Raptors kept in a home must be tethered when they are not being moved into or out of the location in which they are kept.

(m) An outdoor facility must be totally enclosed, and may be made of heavy-gauge wire, heavy-duty plastic mesh, slats, pipe, wood, or other suitable material.

(n) The outdoor facility must be covered and have at least a covered perch to protect a raptor held in it from predators and weather.

(o) The facility must be large enough to insure that the birds cannot strike the enclosure when flying from the perch.

(p) Falconry raptors may be kept outside in the open if they are under watch, by a falconer or a family member at any location or, for example, by a designated individual in a weathering yard at a falconry meet.

(q) A falconer must inform the Department within 5 business days if he or she changes the location of the facilities.

(r) The falconry facilities may be on property owned by another person where a falconer resides, or at a different location. Regardless of location, the facilities must meet the standards indicated in these regulations.

(s) A falconer must submit to the Department a signed and dated statement showing that that the falconry facilities and raptors may be inspected without advance notice by the Department at any reasonable time of day, but the falconer must be present. If the facilities are not on property owned by the falconer, he or she must submit a signed and dated statement showing that the property owner agrees that the falconry facilities and raptors may be inspected by the Department at any reasonable time of day in the presence of the property owner; except that the authorities may not enter the facilities or disturb the raptors unless the falconer is present.

(t) The following equipment must be possessed by the falconer: jesses or the materials and equipment to make them, leash and swivel, bath container, and appropriate scales or balances for weighing raptor(s) possessed.

(u) The bird must have a suitable perch and be protected from extreme temperatures, wind, and excessive disturbance. A “giant hood” or similar container is acceptable for transporting or housing a raptor when the falconer is away from the permanent facility where it is housed.

(14) Temporary Facilities and Care of Raptors by other falconers.

(a) A falconer may house a raptor in temporary facilities for no more than 120 consecutive days if the bird has a suitable perch and is protected from predators, domestic animals, extreme temperatures, wind, and excessive disturbance.

(b) Another falconry permittee may care for a raptor or raptors at another person's facilities for up to 120 consecutive days. The other person must have a signed and dated statement from the falconer who owns the birds plus a copy of FWS form 3-186A that shows the possessor of each of the raptors. The statement must include information about the time period for which he or she will keep the raptor(s), and about what he or she is allowed to do with it or them.

(i) The raptor(s) will remain on the original falconry permit, and will not be counted against the possession limit of the person caring for the raptors.

(ii) If the person caring for the raptor(s) holds the appropriate level falconry permit, he or she may fly the raptor(s) in whatever way authorized, including hunting.

(iii) This care of the raptors may be extended indefinitely in extenuating circumstances, such as illness, military service, or for a family emergency. The Department shall consider such instances on a case-by-case basis.

(c) A person other than a falconer may care for falconry birds possessed at another falconer's facilities for up to 45 consecutive days.

(i) The raptor(s) will remain on the original falconry permit.

(ii) The raptors must remain in the original facilities.

(iii) This care may be extended indefinitely in extenuating circumstances, such as illness, military service, or for a family emergency.

(iv) The person(s) caring for the raptors may not fly them for any reason.

(d) If a falconer resides in South Carolina for more than 120 consecutive days, he or she will be required to obtain a SC Falconry Permit and the facilities must be inspected before the permit is issued.

(e) Falconry equipment and records may be inspected in the presence of the permittee during business hours on any day of the week by the Department.

(15) Taking falcons.

(a) A person may not intentionally capture a raptor species that the classification as a falconer does not allow the person to possess for falconry. If a person captures a bird he or she is not allowed to possess, he or she must release it immediately.

(b) The Department is authorized to revoke or suspend a falconry permit if the permittee:

(i) Does not provide proper care for the raptor.

(ii) Allows the raptor to become a public nuisance.

(iii) Violates established South Carolina game laws or regulations.

(iv) Does not comply with the terms of the permit.

(v) All State hunting seasons, fees and bag limits apply to falconry.

(vi) The suspension for a period not to exceed 6 months will be determined by the Department.

(c) Upon request of the person whose permit has been suspended, the Department may restore the person's falconry permit at the end of the suspension period if the conditions have been met.

(d) A General or Master Falconer, may take only raptors less than 1 year of age from the wild during the period of August 1 through January 31 of each year. However, he or she may take an American kestrel or great horned owl of any age from the wild during this period. These falconers may take no more than two raptors from the wild each year to use in falconry. Legal trapping methods are limited to the following: Bal Chatri (noose cage), Swedish Goshawk trap, Noose Harness, Phai or noose ring, Dig-in method, Dho-Gaza Net or Bow-net.

(e) If a bird is taken from the wild and is transferred to another permittee in the same year in which the bird is captured, the bird will count as one of the raptors allowed to be taken from the wild that year by the falconer who caught the bird; it will not count as a capture by the recipient, though it will always be considered a wild bird.

(f) Only a General or Master Falconer, may remove nestlings from a nest or aerie. Eyases may be taken from May 1 through June 30 only of each year and may occur only on private lands with permission of the landowner. Only one eyas may be removed from each nest and one healthy eyas must remain in the nest from which a nestling is removed. An Apprentice Falconer may not take a nestling from the wild.

(g) Falconers responsible for reporting the take of a raptor from the wild, can report by entering the required information in the electronic database at *http://permits.fws.gov/186A* and by submitting a paper form 3-186A to the Department. This must be done at the first opportunity to do so, but no later than 10 days after the capture of the bird.

(h) If a falconer is present at the capture site, even if another person captures the bird for the falconer, the falconer is considered the person who removes the bird from the wild. The falconer is responsible for filing a 3-186A form reporting take of the bird from the wild. This would occur, for example, if another person climbs a tree or rappels down a cliff and takes a nestling for the falconer and gives it to the falconer at the tree or cliff.

(i) If the falconer who will receive the bird is not at the immediate location where the bird is taken from the wild, the person who removes the bird from the wild must be a General or Master Falconer, and must report take of the bird. If that person then transfers the bird to another falconer, both must file 3-186A forms reporting the transaction at the first opportunity to do so, but no later than 10 days after the transfer. The bird will count as one of the two raptors the person who took it from the wild is allowed to capture in any year. The bird will not count as a bird the recipient falconer took from the wild. The person who takes the bird from the wild must report the take even if he or she promptly transfers the bird to another falconer.

(j) If a falconer has a long-term or permanent physical impairment that prevents him or her from attending the capture of a species one can use for falconry, a General or Master Falconer may capture a bird for the impaired falconer. The impaired and recipient falconer is then responsible for filing a 3-186A form reporting take of the bird from the wild, and the bird will count against the take of wild raptors that a falconer is allowed in any year.

(k) A falconer must promptly release any bird captured unintentionally.

(l) A falconer may recapture a falconry bird lost at any time. Recapture of a wild bird is not considered to be taking a bird from the wild.

(m) A falconer may recapture a raptor if the bird is wearing falconry equipment or a captive-bred bird at any time - even if the falconer is not allowed to possess the species. The bird will not count against the possession limit of the falconer who recaptures the bird, nor will its take from the wild count against his or her limit. The recapture of the bird must be reported to the Department no more than 5 working days after the recapture. A recaptured falconry bird must be returned to the person who lost it, if that person may legally possess it. Disposition of a bird whose legal possession cannot be determined will be at the discretion of the Department.

(n) A falconer may take any raptor that he or she is authorized to possess from the wild if the bird is banded with a Federal Bird Banding Laboratory aluminum band except that a banded peregrine falcon may not be taken from the wild.

(o) If a falconer captures a raptor (including a peregrine falcon) that is marked with a seamless metal band, a transmitter, or any other item identifying it as a falconry bird, the capture must be reported to the Department no more than 5 working days after the capture. A recaptured falconry bird must be returned to the person who lost it. If that person cannot possess the bird or does not wish to possess it, the falconer who recaptured the bird may keep it. Otherwise, disposition of a bird whose legal possession cannot be determined will be at the discretion of the Department. While the falconer keeps a bird for return to the person who lost it, the bird will not count against the possession limit or the limit on take of raptors from the wild if the the bird has been reported to the Department.

(p) If a peregrine falcon is captured and has a research band (such as a colored band with alphanumeric codes) or a research marking attached to it, the bird must be released immediately, except that if the falcon has a transmitter attached to it, the falconer is authorized to possess the bird up to 30 days if he or she wishes to contact the researcher to determine if he or she wishes to replace the transmitter or its batteries. If the researcher wishes to do so, or to have the transmitter removed, the researcher or his or her designee can make the change or allow the falconer to do so before the bird is released. If the researcher does not wish to keep the transmitter on the falcon, the falconer may keep the bird if captured under circumstances in which capture of wild peregrines is allowed.

(q) If a raptor that is captured has any other band, research marking, or transmitter attached to it, the falconer must promptly report the band numbers and all other relevant information to the Federal Bird Banding Laboratory at 1-800-327-2263.

(r) A falconer may contact the researcher and determine if he or she wishes to replace a transmitter attached to a bird captured. If so, the falconer is authorized to possess the bird up to 30 days until the researcher or his or her designee does so, or until the falconer can replace it. Disposition of the bird will be at the discretion of the researcher and the Department. If the falconer possesses such a bird temporarily, it will not count against the possession limit for falconry raptors.

(s) A Master Falconer with a permit to do so, may take, transport, or possess up to three eagles, including golden eagles, white-tailed eagles, or Steller's sea-eagles, subject to the requirements in this section and 50 CFR 22.24. A golden eagle, white-tailed eagle, or Steller's sea-eagle possessed counts as a bird to be included under the falconer’s possession limit.

(t) A falconer has two options for dealing with a bird injured by his or her trapping efforts. In either case, the falconer is responsible for the costs of care and rehabilitation of the bird.

(i) The bird may be recorded on his or her falconry permit. The falconer must report take of the bird by entering the required information in the electronic database at *http://permits.fws.gov/186A* and by submitting a paper form 3-186A to the Department at the first opportunity to do so, but no more than 10 days after capture of the bird. The falconer must then have the bird treated by a veterinarian or a permitted wildlife rehabilitator. The bird will count against the falconer's possession limit.

(ii) The bird may be given directly to a veterinarian, or a permitted wildlife rehabilitator, or an appropriate wildlife agency employee**.** If a falconer does so, it will not count against his or her allowed take or the number of raptors he or she may possess.

(u) If a falconer acquires a raptor; transfers, rebands, or microchips a raptor; if a falconer's raptor is stolen; if a falconer loses a raptor to the wild and it is not recovered within 30 days; or if a bird a falconer possesses for falconry dies; the falconer must report the change within 10 days by entering the required information in the electronic database at *http://permits.fws.gov/186A* or by submitting a paper form 3-186A to the Department.

(v) If a raptor possessed by a falconer is stolen, the falconer must report the theft to the Department and to the Fish and Wildlife Service Regional Law Enforcement office within 10 days of the theft of the bird.

(w) A falconer must keep copies of all electronic database submissions documenting take, transfer, loss, rebanding or microchipping of each falconry raptor until 5 years after he or she has transferred or lost the bird, or it has died.

(x) A falconer may acquire a raptor of any age of a species that one is permitted to possess directly from a rehabilitator. Transfer to the falconer is at the discretion of the rehabilitator.

(i)) If a bird is acquired from a rehabilitator, within 10 days of the transaction the falconer must report it by entering the required information in the electronic database at *http://permits.fws.gov/186A* or by submitting a paper form 3-186A to the Department.

(ii) If a bird is acquired from a rehabilitator, it will count as one of the raptors the falconer is allowed to take from the wild that year.

(16) Flying and releasing falconry birds.

(a) When flown free, a hybrid raptor must have attached at least two functioning radio transmitters to help the falconer locate the bird.

(b) A falconer must follow all applicable State and Federal laws and regulations before releasing a falconry bird to the wild.

(c) If the raptor the falconer wishes to release is not native to the State or territory, or is a hybrid of any kind, it may not be permanently released to the wild. It may be transferred to another falconry permittee.

(d) If the species the falconer wishes to release is native to the State or territory and is captive-bred, it may not be released to the wild unless the falconer has permission from the Department. If permitted to do so, the bird must be hacked (allow it to adjust) to the wild at an appropriate time of year and an appropriate location. The falconry band (if it has one) must be released and the falconer must report release of the bird by entering the required information in the electronic database at *http://permits.fws.gov/186A* or by submitting a paper form 3-186A to the Department.

(e) If the species to be released is native to the State and was taken from the wild, the bird may be released only at an appropriate time of year and an appropriate location. The falconry band must be removed and the falconer must report release of the bird by entering the required information in the electronic database at *http://permits.fws.gov/186A* or by submitting a paper form 3-186A to the Department.

(f) The number of wild-caught or captive-bred raptors transferred to a falconer is not restricted, but he or she may not exceed the possession limit.

(g) No matter how long such a bird is held in captivity or whether it is transferred to another permittee or permit type, it is always considered a "wild" bird. However, it is considered to be taken from the wild only by the person who originally captured it. If transferred to another permittee, the bird is not considered to be taken from the wild.

(17) Hacking

(a) Hacking (temporary release to the wild) is an approved method for falconers to condition raptors for falconry. A General Falconer or a Master Falconer may hack a falconry raptor or raptors.

(i) Any bird hacked counts against the falconer's possession limit and must be a species he or she is authorized to possess.

(ii) Any hybrid hacked must have two attached functioning radio transmitters during hacking.

(iii) A falconry bird may not be hacked near a known nesting area of a Federally threatened or endangered bird species or in any other location where the raptor is likely to harm a Federally listed threatened or endangered animal species that might be disturbed or taken by the falconry bird. The falconer can contact the State Fish and Wildlife Service office in South Carolina for information on Federally-listed species.

(iv) The falconer may use other acceptable falconry practices, such as, but not limited to, the use of creance (tethered) flying, lures, balloons, or kites in training or conditioning falconry raptors. He or she may also fly falconry birds at bird species not protected under the Migratory Bird Treaty Act or at pen-raised animals.

(18) Sale or transfer of falconry birds

(a) A falconer may sell, purchase, or barter, or offer to sell, purchase, or barter captive-bred raptors marked with seamless bands to other permittees who are authorized to possess them.

(b) A falconer may not purchase, sell, trade, or barter wild raptors. He or she may only transfer them.

(c) A falconer may transfer a raptor to another permit type if the recipient of the bird (which could be the same falconer) possesses the necessary permits for the other activity.

(d) A falconer may transfer a wild-caught falconry bird to an individual who holds a raptor propagation permit after the bird has been used in falconry for at least 2 years (1 year for a sharp-shinned hawk, a Cooper's hawk, a merlin, or an American kestrel). When he or she transfers the bird, they must provide a copy of the 3-186A form documenting acquisition of the bird by the propagator to the Federal migratory bird permit office that administers the propagation permit and provide a copy to the Department.

(e) A falconer may transfer a wild-caught bird to another permit type in less than 2 years (1 year for a sharp-shinned hawk, a Cooper's hawk, a merlin, or an American kestrel) if the bird has been injured and a veterinarian has determined that the bird can no longer be flown for falconry.

(i) Within 10 days of transferring the bird, the falconer must provide a copy of the 3-186A form documenting acquisition of the bird to the Federal migratory bird permit office that administers the other permit type and provide a copy to the Department.

(ii) When the falconer transfers the bird, he or she must provide a copy of the certification from the veterinarian or rehabilitator that the bird is not useable in falconry to the Federal migratory bird permits office that administers the other permit type.

(f) A falconer may transfer captive-bred falconry raptors if the holder of the other permit type is authorized to possess the bird(s). Within 10 days he or she must report the transfer by entering the required information in the electronic database at *http://permits.fws.gov/186A* and by submitting a standard paper form 3-186A to the Department.

(19) Use or falconry birds for propagation and education.

(a) A falconer may use raptors possessed for falconry in captive propagation if the falconer or the person overseeing the propagation has the necessary permit(s) (see 50 CFR 21.30). This falconer does not need to transfer a bird from his or her falconry permit if the bird is used for fewer than 8 months in a year in captive propagation, but the bird must be transferred if it is to be used permanently for propagation. The bird must then be banded as required in 50 CFR 21.30.

(b) General or Master Falconers may use a bird possessed in conservation education programs presented in public venues.

(i) Apprentice Falconers may present conservation programs if he or she is under the supervision of a General or Master Falconer when they do so.

(ii) The falconer may charge a fee for presentation of a conservation education program. The fee may not exceed the amount required to recoup the falconer's costs.

(iii) In conservation education programs, the falconer must provide information about the biology, ecological roles, and conservation needs of raptors and other migratory birds, although not all of these topics must be addressed in every presentation. He or she may not give presentations that do not address falconry and conservation education.

(20) The falconer may allow photography, filming, or other such uses of falconry raptors to make movies or other sources of information on the practice of falconry or on the biology, ecological roles, and conservation needs of raptors and other migratory birds, though he or she not be paid for doing so.

(a) The falconer may not use falconry raptors to make movies, commercials, or in other commercial ventures that are not related to falconry

(b) The falconer may not use falconry raptors for commercial entertainment; for advertisements; as a representation of any business, company, corporation, or other organization; or for promotion or endorsement of any products, merchandise, goods, services, meetings, or fairs, with the following exceptions:

(i) The falconer may use a falconry raptor to promote or endorse a nonprofit falconry organization or association.

(ii) The falconer may use a falconry raptor to promote or endorse products or endeavors related to falconry, including, but not limited to items such as hoods, telemetry equipment, giant hoods, perches, materials for raptor facilities, falconry training and education materials, and scientific research and publication.

(21) General or Master Falconers may assist a permitted migratory bird rehabilitator to condition raptors in preparation for their release to the wild. He or she may keep a bird being rehabilitated in his or her facilities.

(a) The rehabilitator must provide the falconer with a letter or form that identifies the bird and explains that he or she is assisting in its rehabilitation.

(b) The falconer does not need to meet the federal rehabilitator facility standards. He or she need only meet the facility standards in this section; his or her facilities are not subject to inspection for compliance with the standards in 50 CFR 21.31.

(c) The falconer does not have to add any raptor he or she possesses for this purpose to the falconry permit; it will remain under the permit of the rehabilitator.

(d) The falconer must return any such bird that cannot be permanently released to the wild to the rehabilitator for placement within the 180-day timeframe in which the rehabilitator is authorized to possess the bird, unless the issuing office authorizes the falconer to retain the bird for longer than 180 days.

(e) Upon coordination with the rehabilitator, the falconer must release all releaseable raptors to the wild or return them to the rehabilitator for release within the 180-day timeframe in which the rehabilitator is authorized to possess the birds, unless the issuing office authorizes he or she to retain and condition a bird for longer than 180 days, or unless the rehabilitator transfers the bird to the falconer to hold under his or her falconry permit.

(22) A Master Falconer may conduct abatement activities with a bird or birds possessed for falconry, if the falconer has a Special Purpose Abatement permit. General Falconers may conduct abatement activities only as a sub-permittee of the holder of the abatement permit.

(a) Falconers may receive payment for providing abatement services if he or she has a Special Purpose Abatement permit.

(23) Possession of falconry bird feathers and disposition of such.

(a) For imping (replacing a damaged feather with a molted feather), a falconer may possess tail feathers and primary and secondary wing feathers for each species of raptor possessed or previously held for as long as he or she has a valid falconry permit. A falconer may receive feathers for imping from other permitted falconers, wildlife rehabilitators, or propagators in the United States, and he or she may give feathers to them. A falconer may not buy, sell, or barter such feathers.

(i) The falconer may donate feathers from a falconry bird, except golden eagle feathers, to any person or institution with a valid permit to have them, or to anyone exempt from the permit requirement under 50 CFR 21.12.

(ii) Except for primary or secondary flight feathers or retrices from a golden eagle, a falconer is not required to gather feathers that are molted or otherwise lost by a falconry bird. He or she may leave the feathers where they fall, store them for imping, or destroy them. However, he or she must collect molted flight feathers and retrices from a golden eagle. If the falconer chooses not to keep them for imping, he or she must send them to the National Eagle Repository.

(iii) All feathers (including body feathers) that are collected from any falconry golden eagle and not needed for imping should be sent to the National Eagle Repository at the following address: U.S. Fish and Wildlife Service, National Eagle Repository, Rocky Mountain Arsenal, Building 128, Commerce City, Colorado 80022. The telephone number at the Repository is 303-287-2110.

(b) If the falconer's permit expires or is revoked, he or she must donate the feathers of any species of falconry raptor except a golden eagle to any person or any institution exempt from the permit requirement under § 21.12 or authorized by permit to acquire and possess the feathers. If the feathers are not donated, they must be burned, buried, or otherwise destroyed.

(24) A falconer must send the entire body of a golden eagle held for falconry, including all feathers, talons, and other parts, to the National Eagle Repository.

(a) A falconer may donate the body or feathers of any other species of falconry raptor to any person or institution exempt under 50 CFR 21.12 or authorized by permit to acquire and possess such parts or feathers.

(b) If the bird was banded or microchipped prior to its death, the falconer may keep the body of any falconry raptor except that of a golden eagle. He or she may keep the body so that the feathers are available for imping, or may have the body mounted by a taxidermist. He or she may use the mount in giving conservation education programs. If the bird was banded, the band must be left on the body. If the bird has an implanted microchip, the microchip must be left in place.

(c) If a falconer wishes to donate the bird body or feathers or keep it, he or she must burn, bury, or otherwise destroy it or them within 10 days of the death of the bird or after final examination by a veterinarian to determine cause of death. Carcasses of euthanized raptors could pose a risk of secondary poisoning of eagles and other scavengers. The falconer must take appropriate precautions to avoid such poisonings.

(d) If the bird body or feathers is not donated or the body is mounted by a taxidermist, the flight feathers may be possessed for as long as a valid falconry permit is held. However, the feathers may not be bought, sold or bartered. The falconer must keep the paperwork documenting his or her acquisition of the bird.

(25) Visiting falconers

(a) A visitor to the United States may qualify for a temporary falconry permit appropriate for his or her experience.

(i) The permit may be valid for any period specified by the Department.

(ii) To demonstrate knowledge South Carolina falconry laws and regulations, the visitor must correctly answer at least 80 percent of the questions on the supervised examination for falconers administered by the Department. If the visitor passes the test, the Department will decide for what level of temporary permit the person is qualified. The decision should be based on the individual's documentation of his or her experience.

(iii) If the falconer holds a temporary falconry permit, he or she may possess raptors for falconry if he or she have approved falconry facilities.

(iv) A holder of a temporary falconry permit may fly raptors held for falconry by a permitted falconer.

(v) A holder of a temporary falconry permit may not take a bird from the wild to use in falconry.

(vi) For the duration of a permit from the Department, a visitor may use any bird for falconry that he or she possess legally in his or her country of residence for that purpose, provided that import of that species to the United States is not prohibited, and provided that he or she has met all permitting requirements of his or her country of residence.

(vii) A visitor must comply with the provisions in this section, those of the State, tribe or territory where he or she wishes to conduct falconry, and all States through which he or she will travel with the bird.

(viii) The visitor may transport registered raptors. He or she may need one or more additional permits to bring a raptor into the United States or to return home with it (*see* 50 CFR part 14 (importation, exportation, and transportation of wildlife), part 15 (Wild Bird Conservation Act), part 17 (endangered and threatened species), part 21 (migratory bird import and export permits), and part 23 (endangered species convention)).

(ix) Unless the visitor has the necessary permit(s) to bring a raptor into the United States and leave it here, he or she must take raptors brought into the country for falconry out of the country when he or she leaves. If a raptor brought into the United States dies or is lost while in this country, the visitor must document the loss before leaving the United States by reporting the loss to the Department.

(x) When flown free, any bird brought to this country temporarily must have two attached radio transmitters that will allow the falconer to locate it.

(xi) If the raptor dies or is lost, the falconer is not required to bring it back but must report the loss immediately upon return to the United States in the manner required by the falconry regulations of the State, and any conditions on the CITES certificate.

(26) A falconer does not need special or written permission for any of these activities on public lands if it is authorized. However, he or she must comply with all applicable Federal, State laws regarding falconry activities, including hunting. The falconry permit does not authorize him or her to capture or release raptors or practice falconry on public lands if it is prohibited on those lands, or on private property, without permission from the landowner or custodian.

(27) If a falconry bird kills prey without the falconer's intent, including an animal taken outside of a regular season, he or she may allow the falconry bird to feed on the animal, but the falconer may not take the animal into possession. The falconer must report take of any federally listed threatened or endangered species to the local USFWS Ecological Services Field Office.

(28) With a falconry bird, the falconer may take any species listed in 50 CFR parts 21.43, 44, 45, or 46 of this subchapter at any time in accordance with the conditions of the applicable depredation order, as long as he or she is are not paid for doing so.

(29) A surviving spouse, executor, administrator, or other legal representative of a deceased falconry permittee may transfer any bird held by the permittee to another authorized permittee within 90 days of the death of the falconry permittee. After 90 days, disposition of a bird held under the permit is at the discretion of the Department.

(30) If the falconer moves outside the jurisdiction of the Department and takes falconry birds with him or her, he or she must inform the Department within 30 days.