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SOUTH CAROLINA STATE REGISTER

PUBLISHED BY THE LEGISLATIVE COUNCIL of the GENERAL ASSEMBLY

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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

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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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4447 Code of Ethics 6/04/14 Board of Nursing			South Carolina Virtual School Program	6/01/14	
4445Office of State Fire Marshal6/04/14LLR- Office of State Fire Marshal					
	4445		Office of State Fire Marshal	6/04/14	LLR- Office of State Fire Marshal

2 REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4446	Enforcement of Violations	6/04/14	LLR- OSHA
4369	Allow E-911 Operators One Year to Attend Training at the	0/04/14	LLR- OSHA
4507	Academy	6/04/14	South Carolina Criminal Justice Academy
4370	Requirement of Good Character (E-911 Operators)	6/04/14	South Carolina Criminal Justice Academy
4374	Application for Issuance or Re-issuance of Certification	6/04/14	South Carolina Criminal Justice Academy
4443	Seasons, Limits, Methods of Take and Special Use		5
	Restrictions on Wildlife Management Areas	1/18/15	Department of Natural Resources
4453	Annuity Mortality Tables For Use In Determining Reserve		
	Liabilities For Annuities	2/24/15	Department of Insurance
4452	Requirements of Licensure for Long Term Health Care		
	Administrators	2/27/15	Board of Long Term Health Care
		0.00.4.5	Administrators
4444	Water Pollution Control Permits	2/28/15	Department of Health and Envir Control
4350	Law Enforcement Officer and E-911 Officer Training and	2/15/15	Sauth Canalina Caincinal Institut Anadamu
	Certification (Renumber and Reorganize)	3/15/15	South Carolina Criminal Justice Academy
Agency Request Withd	rawa		
4345	Adjudication of Misconduct Allegations (Reporting of		
5-5-	Misconduct by Law Enforcement Officers)	Tolled	South Carolina Criminal Justice Academy
4372	Certification	Tolled	South Carolina Criminal Justice Academy
4344	Adjudication of Misconduct Allegations (Contested Case		,
	Hearing Process)	Tolled	South Carolina Criminal Justice Academy
Committee Request W			
4337	Requirements of Licensure in the Field of Cosmetology		
	(Sanitation and Salons)	Tolled	Board of Cosmetology
4389	Requirements of Licensure in the Field of Speech-Language		
	Pathology and Audiology	Tolled	Board of Examiners in Speech-Language
Develoption Interational	4. D'		
Resolution Introduced 4392	Interscholastic Activities	Tolled	State Board of Education
4392	Interscholastic Activities	Toneu	State Board of Education
Permanently Withdray	wn		
4329	Cheese & Butter		Department of Agriculture
4379	Requirements of Licensure in Real Estate Appraisal		Real Estate Appraisers Board
4384	Requirements of Licensure for Professional Boxing,		II
	Wrestling, Kick Boxing, and Off the Street Boxing		State Athletic Commission
4385	Requirements of Licensure in Mixed Martial Arts		State Athletic Commission
4368	Authority of Director		South Carolina Criminal Justice Academy
4376	Assignment of Costs for Agency Level Contested Case		
	Hearings		South Carolina Criminal Justice Academy
4436	Board of Registration for Foresters		Board of Registration for Foresters

COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

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

Doc. No.	Subject	HOUSE COMMITTEE SENA	TE COMMITTEE
4317	Unemployment Insurance	Labor, Commerce and Industry	Labor, Commerce and Industry
4334	Officers, Meetings, Applications and Fees, Renewals, and		
4335	Continuing Education Administrative Citations and Penalties	Labor Commerce and Industry Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry Labor, Commerce and Industry
4333	Child Support Guidelines	Judiciary	Judiciary
4342	Nurse Licensure Compact	Medical, Military, Pub & Mun Affairs	Medical Affairs
4378	Office of State Fire Marshal	Labor, Commerce and Industry	Labor, Commerce and Industry
4347	Law Enforcement Officer and E-911 Officer Training & Certification	Judiciary	Judiciary
4284	Limited Herbicide Applicators License	Agriculture and Natural Resources	Agriculture and Natural Resources
4316	Employer-Employee Relationship	Labor, Commerce and Industry	Labor, Commerce and Industry
4399	Lump Sum Payment	Labor, Commerce and Industry	Judiciary
4403 4409	Displaying the Flag Teacher Grants	Education and Public Works Education and Public Works	Education Education
4401	Accreditation Standards Filed	Education and Public Works	Education
4396	Utilization of General Teacher Certification	Education and Public Works	Education
4404	Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School		
	Districts	Education and Public Works	Education
4405	Operation and Funding of Teacher Training Courses in	Education and Fublic Works	Education
	Mathematics, Science, Reading and Computer Education	Education and Public Works	Education
4397	School Admission Accreditation Criteria	Education and Public Works	Education
4400 4391	School Superintendent Compensation and Benefits/Expenses	Education and Public Works Education and Public Works	Education Education
4414	Additional Requirements Applicable to Specific Properties	Agriculture and Natural Resources	Fish, Game and Forestry
4388	Air Pollution Control Regulations and Standards	Agriculture and Natural Resources	Medical Affairs
4386	Coastal Division Regulations	Agriculture and Natural Resources	Agriculture and Natural Resources
4428 4411	Homemade Watercraft Seasons, Limits, Methods of Take and Special Use Restrictions	Agriculture and Natural Resources	Fish, Game and Forestry
	on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4425	Water Classifications and Standards	Agriculture and Natural Resources	Agriculture and Natural Resources
4434	Vaccination, Screening and Immunization Regarding		
4432	Contagious Diseases Solid Waste Management: Yard Trash and Land-clearing Debris;	Medical, Military, Pub & Mun Affairs	Medical Affairs
4432	and Compost	Agriculture and Natural Resources	Medical Affairs
4431	Public Swimming Pools	Agriculture and Natural Resources	Medical Affairs
4429	Critical Congenital Heart Defects Screening on Newborns	Medical, Military, Pub & Mun Affairs	Medical Affairs
4430	Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	Medical, Military, Pub & Mun Affairs	Medical Affairs
4424	Retail Food Establishments	Agriculture and Natural Resources	Medical Affairs
4408	Student Attendance	Education and Public Works	Education
4421	Defined Program for the Palmetto Unified School District (PUSD)	Education and Public Works	Education
4382 4410	Qualification of Special Inspectors Amend Regulations in Conformance with its Practice Act	Labor, Commerce and Industry Agriculture and Natural Resources	Labor, Commerce and Industry Labor, Commerce and Industry
4418	Regulations Administering Fire Protection Sprinkler Systems Act	Labor, Commerce and Industry	Labor, Commerce and Industry
4423	Board of Registration for Geologists	Agriculture and Natural Resources	Labor, Commerce and Industry
4433	Standards for Licensing In-Home Care Providers	Medical, Military, Pub & Mun Affairs	Medical Affairs
4439 4438	Requirements of Licensure in the Practice of Psychology Financial Responsibility	Medical, Military, Pub & Mun Affairs Labor, Commerce and Industry	Medical Affairs
4438	IRC Section 312.2 Window Fall Protection	Labor, Commerce and Industry	Labor, Commerce and Industry Labor, Commerce and Industry
4437	Establish and Amend Schedules of Fees for Certain Professional		
	and Occupational Licensing Boards and Commissions	Labor, Commerce and Industry	Labor, Commerce and Industry
4406	Requirements for Certification at the Advanced Level	Education and Public Works	Education Education
4420 4422	Adult Education Program Requirements for Additional Areas of Certification	Education and Public Works Education and Public Works	Education
4427	Tobacco Enforcement	Agriculture and Natural Resources	Finance
4426	Real Estate Appraisers Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4407 4419	South Carolina Virtual School Program	Education and Public Works Education and Public Works	Education
4419 4447	Adult Education Code of Ethics	Medical, Military, Pub & Mun Affairs	Education Medical Affairs
4447	Office of State Fire Marshal	Labor, Commerce and Industry	Labor, Commerce and Industry
4446	Enforcement of Violations	Labor, Commerce and Industry	Labor, Commerce and Industry
4369	Allow E-911 Operators One Year to Attend Training at the	T 11 · ·	T 1 ¹ ¹
4370	Academy Requirement of Good Character (E-911 Operators)	Judiciary Judiciary	Judiciary Judiciary
4374	Application for Issuance or Re-issuance of Certification	Judiciary	Judiciary
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4 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4443	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Agriculture and Natural Resources	Fish, Game and Forestry
4453	Annuity Mortality Tables For Use In Determining Reserve Liabilities For Annuities	Labor, Commerce and Industry	Banking and Insurance
4452	Requirements of Licensure for Long Term Health Care Administrators	Medical, Military, Pub & Mun Affairs	Medical Affairs
4444 4350	Water Pollution Control Permits Law Enforcement Officer and E-911 Officer Training and	Agriculture and Natural Resources	Medical Affairs
4550	Certification (Renumber and Reorganize)	Judiciary	Judiciary
Agency Request Withdrawal			
4345	Adjudication of Misconduct Allegations (Reporting of Misconduct by Law Enforcement Officers)	Judiciary	Judiciary
4372	Certification	Judiciary	Judiciary
4344	Adjudication of Misconduct Allegations (Contested Case Hearing	succentry	succentry
	Process)	Judiciary	Judiciary
Committee Request Withdrawal			
4337	Requirements of Licensure in the Field of Cosmetology		
4389	(Sanitation and Salons) Requirements of Licensure in the Field of Speech-Language	Medical, Military, Pub & Mun Affairs	Labor, Commerce and Industry
4309	Pathology and Audiology	Medical, Military, Pub & Mun Affairs	Medical Affairs
Resolution Introduced to Disapprove			
4392	Interscholastic Activities	Education and Public Works	Education
Permanently Withdrawn			
4329	Cheese & Butter	Agriculture and Natural Resources	Agriculture and Natural Resources
4379 4384	Requirements of Licensure in Real Estate Appraisal Requirements of Licensure for Professional Boxing, Wrestling,	Labor, Commerce and Industry	Labor, Commerce and Industry
4304	Kick Boxing, and Off the Street Boxing	Labor, Commerce and Industry	Labor, Commerce and Industry
4385	Requirements of Licensure in Mixed Martial Arts	Labor, Commerce and Industry	Labor, Commerce and Industry
4368	Authority of Director	Judiciary	Judiciary
4376	Assignment of Costs for Agency Level Contested Case Hearings	Judiciary	Judiciary
4436	Board of Registration for Foresters	Agriculture and Natural Resources	Fish, Game and Forestry

Executive Order No. 2014-25

WHEREAS, on April 18, 2014, there existed a vacancy in the Office of the Coroner of Lexington County upon the death of The Honorable Harry O. Harman, Coroner of Lexington County; and

WHEREAS, in the event of a vacancy in the office of coroner, the undersigned is authorized to fill the office by appointing a qualified replacement pursuant to Section 17-5-50 of the South Carolina Code of Laws as amended; and

WHEREAS, William E. "Earl" Wells residing at 612 Garmony Road in Columbia, South Carolina 29212 is a fit and proper person to serve as the Coroner of Lexington County.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint William E. "Earl" Wells as Coroner of Lexington County until the next general election and until his successor shall qualify.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 29th DAY OF APRIL, 2014.

NIKKI R. HALEY Governor

Executive Order No. 2014-26

WHEREAS, on April 28, 2014, the S-8-9 Bridge, known as the Cypress Gardens Road Bridge, over CSX Railroad in Berkeley County was struck by a train, causing multiple spans of the bridge to collapse; and

WHEREAS, the bridge is currently closed to all traffic requiring immediate replacement of the bridge, diverting approximately 6,200 vehicles per day with a detour route of approximately 22 miles; and

WHEREAS, the scope of a bridge replacement required for this bridge is beyond the capability of the South Carolina Department of Transportation's Maintenance Forces but is necessary due to the significance of the bridge to the surrounding industries and to the motoring public; and

WHEREAS, these conditions constitute an emergency as is contemplated by the terms of Section 125 of Title 23 in the United States Code, which would allow SCDOT to seek Emergency Relief Funds from the Federal Highway Administration.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby declare that an emergency exists as a result of the damage caused by a train striking the Cypress Gardens Road Bridge in Berkeley County and direct the South Carolina Department of Transportation to undertake actions to replace the collapsed bridge. I further direct the Department of Transportation to obtain federal approval of the Federal Highway Division Administrator to make Federal Highway Division Emergency Relief assistance available to the State.

GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 29th DAY OF APRIL, 2014.

NIKKI R. HALEY Governor

South Carolina State Register Vol. 38, Issue 5 May 23, 2014

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF FINAL AMENDMENT TO AIR QUALITY STATE IMPLEMENTATION PLAN

Statutory Authority: The Clean Air Act, 42 U.S.C. Section 7410; 1976 S.C. Code Ann. Section 48-1-10 et seq. (2008 & Supp. 2013)

Pursuant to Section 110(a)(1) and (2) of the Clean Air Act ("CAA"), the South Carolina Department of Health and Environmental Control (Department) has revised the State Implementation Plan ("SIP"), by formally certifying to the United States Environmental Protection Agency ("EPA") that it has met the obligations for the 2010 National Ambient Air Quality Standards ("NAAQS") for Sulfur Dioxide ("SO₂"). This SO₂ infrastructure SIP certification serves to assure attainment and maintenance of the NAAQS.

Interested persons may contact Andrew Hollis, Regulation and SIP Management Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201, or by phone at (803) 898-4196 or email at hollisao@dhec.sc.gov for more information.

Synopsis:

On June 2, 2010, the EPA finalized a revised NAAQS for Sulfur Dioxide (75 FR 35520, published June 22, 2010). With this rule, the EPA set a new 1-hour primary SO₂ standard at the level of 75 parts per billion ("ppb") and revoked the two previously existing primary standards of 140 ppb evaluated over 24- hours, and 30 ppb evaluated over an entire year. Sections 110(a)(1) and (2) of the CAA require all states to submit plans to provide for the implementation, maintenance, and enforcement of the NAAQS. Sections 110(a)(1) and (2) further require states to address basic SIP requirements, including but not limited to the following elements: emissions limits and other control measures, ambient air quality monitoring, a program for the enforcement of control measures, adequate resources to implement the SIP, and public notification and government consultation. Section 110(a)(1) requires states to submit SIPs within three (3) years after promulgation of a new or revised NAAQS, or June 2, 2013, in this case. The Department delayed submittal of this SIP until necessary federal implementation guidance was released. This guidance was released by EPA on September 13, 2013.

On June 2, 2011, the Department submitted a request to EPA Region 4 that the EPA designate each county in the State of South Carolina as "attainment" for the 1-hour primary SO₂ NAAQS. On February 7, 2013, EPA issued a letter to SC indicating that it would not designate any areas of the state for the new 1-hour SO₂ National Ambient Air Quality Standard ("standard") until an updated strategy for accurately identifying SO₂ levels throughout the country could be finalized.

On February 28, 2014, the Department published a Notice of General Public Interest in the *South Carolina State Register* that provided public notice of the Department's proposal to certify that it had addressed the required SIP elements for SO₂ attainment areas in South Carolina. On the same day, the Department submitted a pre-hearing package to EPA Region 4 for review. The aforementioned notice announced a 30-day comment period and a public hearing for the proposed SO₂ infrastructure SIP certification. The Department received a 'no comment' letter from the EPA as a result of its pre-hearing submittal. The Department received comments from the Sierra Club as part of the public notice and has addressed those comments in the final package submitted to the EPA. A request for a public hearing was requested, but withdrawn, so pursuant to 40 CFR 51.102 the Department did not hold a public hearing.

The Department is certifying to the EPA that it has addressed the SIP elements pertaining to the SO_2 attainment areas in South Carolina. This SO_2 infrastructure SIP certification specifies how the Department complies with each SIP element for the 2010 SO_2 NAAQS. This Final Amendment to the SIP will take effect upon publication of this Notice in the *South Carolina State Register*.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF GENERAL PUBLIC INTEREST

NOTICE OF INTENT TO REVISE THE STATE IMPLEMENTATION PLAN (SIP)

MARGINAL NONATTAINMENT AREA SIP FOR THE YORK COUNTY PORTION OF THE CHARLOTTE-ROCK HILL NC-SC 8-Hour OZONE NONATTAINMENT AREA

Statutory Authority: The Clean Air Act, 42 U.S.C. Section 7401 et seq.; 42 U.S.C. Sections 7407 & 7410; 40 C.F.R. Parts 51.102 and 81.241; S.C. Code Ann. Section 48-1-10 et seq. (2008 & Supp. 2013)

South Carolina Air Quality Implementation Plan:

NOTICE IS HEREBY GIVEN, the South Carolina Department of Health and Environmental Control proposes to submit a final nonattainment area State Implementation Plan ("SIP") certification for the York County portion of the Charlotte-Rock Hill NC-SC 8-hour ozone nonattainment area to the Environmental Protection Agency ("EPA"), 40 C.F.R. 81.341.

Opportunity for Public Comment:

Interested persons are invited to present their views in writing to Roger Jerry, Division of Air Assessment and Regulation, Bureau of Air Quality, 2600 Bull Street; Columbia, SC 29201. Comments may also be submitted via email to jerryre@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on June 23, 2014, the close of the drafting comment period. A public hearing has been planned for June 30, 2014, at 10 a.m. in the Wallace Room (3141), 2600 Bull Street, Columbia, South Carolina. The public is invited to attend. Pursuant to 40 CFR 51.102, if no adverse comment and no request for a public hearing are received by the close of the comment period (June 23, 2014), the hearing will be cancelled. If the public hearing has been cancelled, the Department will notify the public one week prior to the scheduled hearing via the "Scheduled Public Hearings" webpage: http://www.scdhec.gov/environment/baq/Regulation-SIPManagement/SIP/public_hearings.asp. Interested parties are encouraged to contact Roger Jerry at (803) 898-1799 or jerryre@dhec.sc.gov for more information or to determine if the public hearing has been cancelled.

Background:

On April 30, 2012 (77 FR 30088), the EPA issued final area designations for the 2008 Ozone National Ambient Air Quality Standard ("NAAQS"), 40 C.F.R. 81.341. At that time, all of South Carolina was classified as unclassifiable/attainment with the exception of a portion of York County. Although the monitor in York County was meeting and continues to meet the standard, EPA included the eastern, urbanized area of York County in the Charlotte-Rock Hill, NC-SC nonattainment area ("York NAA") because of its proximity to Charlotte. This is the same portion of York County that was designated in 2004 as nonattainment for the 1997 ozone standard, with the exception of the Catawba Indian Nation Reservation. The York NAA was designated marginal for the 2008 ozone NAAQS (77 FR 30144) and South Carolina has already implemented Clean Air Act, Section 182(a), NAA requirements in the area due to the 1997 moderate designation.

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Purpose:

This proposed SIP revision provides EPA with nonattainment area SIP certifications which fulfill the requirements of Section 182(a) of the Clean Air Act as amended. Air quality monitoring data shows that the York NAA currently meets the 2008 8-hour ozone NAAQS of 0.075 ppm. Documents relating to this York NAA SIP certification will be available via the Department's website at: http://www.scdhec.gov/environment/baq/Ozone/StandardsandRequirements/NAAQS.asp

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

CHAPTER 61-96

Statutory Authority: 1976 Code Sections 44-75-10 et seq.

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) proposes to amend S.C. Regulation 61-96, Athletic Trainers. Interested persons are invited to submit their views and recommendations in writing to Robert Wronski, EMS Director, DHEC Division of EMS and Trauma, 2600 Bull Street, Columbia, South Carolina 29201, or by email at wronskra@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on June 23, 2014, the close of the drafting comment period.

Synopsis:

The Department proposes to amend R.61-96 to incorporate changes in new technology. Specifically, the amendments will incorporate changes in the renewal process to allow for electronic submission and notification by the Department of renewals to an email notification vice postal notifications.

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 Section 44-1-140

Notice of Drafting:

The Department of Health and Environmental Control proposes to repeal R.61-11, Hypodermic Devices, and R.61-18, Drugs and Devices. Interested persons may submit written comments to Mrs. Regina Erving, Director, Bureau of Drug Control, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. To be considered, comments must be received by 5:00 p.m. on June 23, 2014, the close of the drafting comment period.

Synopsis:

The Department has conducted a review of its drug control regulations and, in the interest of good government and efficiency, proposes the repeal of the regulations listed below because they have become obsolete and are no longer needed:

Regulation 61-11, Hypodermic Devices

R.61-11 was promulgated pursuant to Article 7, Title 44, Chapter 53, "Hypodermic Needles and Syringes." The regulation describes record-keeping requirements, registration and other procedural matters to comply with the statutory provisions. The Article was repealed by 2002 Act No. 365, Section 5, effective September 26, 2002, with the exception of Section 44-53-950.

Regulation 61-18, Drugs and Devices

R.61-18 was promulgated pursuant to Title 39, Chapter 23, "Adulterated, Misbranded or New Drugs and Devices." The regulation incorporates by reference those rules and regulations issued by the Food and Drug Administration, U.S. Department of Health, Education and Welfare which are contained in 21 CFR 1 through

10 DRAFTING NOTICES

21 CFR 129 that pertain to drugs and devices, as defined by S.C. Code Ann. Section 39-23-10 et seq., "The South Carolina Drug Act." The Regulation is not necessary because the items it regulates are currently addressed in state statute and federal law.

Legislative review of this repeal will be required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority 1076 Code Sections 44.06 10 et cos

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

Notice of Drafting:

The Department of Health and Environmental Control is proposing to amend R.61-107.3, Solid Waste Management: Waste Tires. Interested persons may submit their views by writing to Kent Coleman, Division Director, Mining and Solid Waste Management Division, at S.C. Department of Health and Environmental Control, Bureau of Land and Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on June 23, 2014, the close of the drafting comment period.

Synopsis:

The proposed amendment of R.61-107.3, Solid Waste Management: Waste Tires will amend the applicability of the regulation, and amend and expand the definitions contained in the regulation. The amendment will update, clarify, or amend the standards for hauling, sorting, storing, processing and disposing waste tires. Changes to be considered include, but are not limited to: revisions to operational standards, siting requirements, reporting requirements, permitting requirements and financial assurance requirements. Exemptions from the requirements of the regulation will be clarified. Also under consideration will be penalties for violations of the regulation and the statute as allowed or prescribed by S.C. Code Ann. Sections 44-96-10 et seq. (Revised 2002).

The name of the regulation may be changed.

Legislative review is required.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority: 1976 Code Sections 44-71-10 et seq.

Notice of Drafting:

The Department of Health and Environmental Control proposes to amend Regulation 61-78, Standards for Licensing Hospices. 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. To be considered, all comments must be received no later than 5:00 p.m., June 23, 2014, the close of the comment period.

Synopsis:

The Department of Health and Environmental Control proposes to amend Regulation 61-78. This amendment pertains to provisions relating to rights and assurances, patient records, emergency procedures, design, construction, fire and life safety, and overall licensing requirements for hospice facilities. The Department also

intends to add language to incorporate current provider wide exceptions and memoranda that are applicable to inpatient and outpatient hospice facilities.

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.

Document No. 4461 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 44-7-110 through 44-7-394, 44-37-40, 44-37-50, and 63-7-40

61-16. Minimum Standards for Licensing Hospitals and Institutional General Infirmaries

Preamble:

Regulation 61-16, *Minimum Standards for Licensing Hospitals and Institutional General Infirmaries*, has sections pertaining to Perinatal Care Services. This revision will be limited to provisions in the regulation relating to perinatal care. The Department proposes amending the Perinatal Care Services Sections to account for evolving practices and to improve overall quality and effectiveness.

This amendment revises Section 1300, Perinatal Services, of *State Register* Document 4430 at <u>http://www.scstatehouse.gov/regs/4430.docx</u> that completed legislative review May 17, 2014. Document 4430 is expected to take effect by publication in the *State Register* on June 27, 2014.

A Notice of Drafting was published in the State Register on March 28, 2014.

Section-by-Section Discussion of Proposed Amendments

Statutory authority for the regulation is added under the title of the regulation and before the table of contents for consistency with other regulations.

61-16.1301 Newborn Hearing Screening

This section is revised to clarify sections 61-16.1301.A, B and C to replace references of "must" and insert "shall."

61-16.1302 Shaking infant video & infant CPR information for parents and caregivers of newborn infants and adoptive parents

This section is revised to clarify sections 61-16.1302.A and B to replace references of "must" and insert "shall." In addition, section 61-16.1302.C is revised to conform to the statutory authority of Shaking Infant Video & Infant CPR, Section 44-37-50.

61-16-1303 Providing a Safe Haven for Abandoned Babies

This section is revised to clarify sections 61-16.1301.A, B and C to replace references of "must" and insert "shall."

61-16.1305 Perinatal Organization

This section is revised to delete the Level II Enhanced (IIE) level of care and add Level IV in sections 61-16.1305.A and 61-16.1305.B. This section is revised to clarify a review of neonate mortality.

61-16.1306 Designation of Inpatient Perinatal Care Services

This section is revised to clarify a Basic Perinatal Care Center with Well Newborn Nursery (Level I), a Specialty Perinatal Center with Special Care Nursery (Level II) and Subspecialty Perinatal Center with Neonatal Intensive Care Unit (Level III). This section is revised to delete Enhanced Perinatal Center (Level IIE) requirements. This section adds language to clarify a Complex Neonatal Intensive Care Unit (Level IV).

61-16.1307 Personnel

This section is revised to delete the Level IIE references and add Level III and Level IV requirements.

61-16.1313 Evaluation of Perinatal Care

This section is revised Section 61-16.1313.A to delete the Level references and replace with all hospitals. Section 61-16.1313.C is to delete "Each hospital" and replace with Level I and Level II hospitals. Additionally, Section 61-16.1313.E is revised to delete Level IIE reference.

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 July 10, 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 Department 24 hours in advance of the meeting at the following the address: http://www.scdhec.gov/regulatory.htm. 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 June 23, 2014, the close of the public comment period. Written comments received by the June 23, 2014, deadline shall be considered by the Department in formulating the final proposed regulation for public hearing on July 10, 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* <u>http://www.scdhec.gov/regulatory.htm</u>. (Click on the *Update*, the Health Facilities & Services category, and scan down for this proposed amendment).

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. 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.61-16, *Minimum Standards for Licensing Hospitals and Institutional General Infirmaries*.

Purpose: This revision will be limited to provisions in the regulation relating to perinatal care. The Department proposes amending the Perinatal Care Services Sections to account for evolving practices and to improve overall quality and effectiveness.

Legal Authority: 1976 Code Sections 44-7-110 through 44-7-394, 44-37-40, 44-37-50, and 63-7-40.

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 regulation will be available electronically on the South Carolina Legislature Online website and the Department's regulation development website (<u>http://www.scdhec.gov/regulatory.htm</u>). 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 the perinatal sections of R.61-16 on April 26, 2002. 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.

Issues found in the review, requests from the perinatal community and the necessity for overall updates render the proposed amendment needed and reasonable. The amendments improve the perinatal hospital designation assignments by creating a new designation level and following the *Guidelines for Perinatal Care*. The regulation is an overall improvement for public health by seeking to secure volume requirements without jeopardizing other providers who currently provide services.

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 perinatal sections for hospitals providing perinatal care while maintaining the interests of patient health and safety and lessening provider burdens. The amendments allow the community to maintain current perinatal care while adding new hospital designations.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

There will be no effect on the environment.

The amendments will reasonably account for evolving practices and improve overall quality and effectiveness of the perinatal community. The amendments will improve perinatal care within South Carolina by allowing new hospital perinatal care designations and be aligned with the current *Guidelines for Perinatal Care*.

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 hospital facilities that provide perinatal care services.

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 regulation introduces a new designation to be aligned with the current *Guidelines for Perinatal Care*. The regulation is an overall improvement for public health by seeking to secure volume requirements without jeopardizing other providers who currently provide services.

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. 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)

Preamble:

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 is proposing to amend 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 is also proposing to make 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 proposed 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. The Department received no public comments.

Section-by-Section Discussion of Proposed 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.

2.3.2 Revise clarifying requirements involving small quantities of source material.

2.3.2.1 - 2.3.2.4 Add requirements concerning small quantity source material.

2.4.2.2 - 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.

2.7.1.1.6 Add clarification for registration of devices.

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.

2.7.15

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.

2.10.2 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.

2.15 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.

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

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.

2.29.1

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.

3.57.3.3.1 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 3.57 Add paragraph at Appendix G, RHA 3.57, 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.

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 August 7, 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/regulatory.htm. 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 Susan E. Jenkins, Manager, Radioactive Waste Management, South Carolina DHEC, 2600 Bull St., Columbia, South Carolina 29201 or by email to jenkinse@dhec.sc.gov. To be considered, written comments must be received no later than 5:00 p.m. on June 23, 2014, the close of the public comment period. Written comments received by the June 23, 2014 deadline shall be considered by the Department in formulating the final proposed regulation for public hearing on August 7, 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 Susan E. Jenkins 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* <u>http://www.scdhec.gov/regulatory.htm</u>. (Click on the *Update*, the Radiological Health category, and scan down for this proposed amendment).

Statement of Need and Reasonableness:

This Statement of Need and Reasonableness complies with S.C. Code Ann. Section 1-23-115(C)(1)-(3) and (9)-(11)

DESCRIPTION OF REGULATION: Proposed amendment of R.61-63 Radioactive Materials (Title A).

Purpose: The Department intends to amend 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 may be 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 <u>FR</u> 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 \underline{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 \underline{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 <u>FR</u> 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 <u>FR</u> 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 <u>FR</u> 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.

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. 4463 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority: 1976 Code Section 44-7-260

61-91. Standards for Licensing Ambulatory Surgical Facilities

Preamble:

Regulation 61-91 was last substantively amended on June 27 2003. The purpose of the regulation is to provide a set of minimum licensing standards for ambulatory surgical facilities to provide for the health and safety of patients. An ambulatory surgery facility is defined as a distinct, freestanding, self-contained entity that is organized, administered, equipped, and operated exclusively for the purpose of performing surgical procedures or related care, treatment, procedures and/or services, for which patients are scheduled to arrive and be discharged the same day. The purpose of the amendment is to revise the language to remove unduly financial burden on an entity involved in licensee change. 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 March 28, 2014.

Section-by-Section Discussion of Proposed Amendments

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

TABLE OF CONTENTS

The table was revised to reflect the proposed amendments.

61-91.103. License Requirements This section deletes language at 61-91.103.C and 61-91.103.D to ease the burden of construction requirements and remaining subsections were renumbered to adjust outline. 61-91.103.G (formerly I) was amended to revise language that the Department may charge a fee for plan reviews, construction inspections and licensing inspections.

61-91.508. Health Status (I) Section 508.B was revised to the correct reference for Tuberculosis Risk Assessment.

61-91.601. Incidents/Accident (II)

The title and text of this section was revised to current standards of accident/incident reporting.

61-91.602. Fire/Disasters

Sections 61-91.602.A and 61-91.602.B were revised to remove the Division of Health Licensing reference and replace with the Department and allowed reporting by email option.

61-91.604. Administrator Change This section is revised to remove the Division of Health Licensing reference and replace with the Department.

61-91.607. Facility Closure This section revises 61-91.607.A and B to remove the Division of Health Licensing reference and replace with the Department.

61-91.608. Zero Census This section is revised to remove the Division of Health Licensing reference and replace with the Department and to clarify payment of a licensing fee.

61-91.703. Record Maintenance Sections 61-91.703. E and F are revised to remove the Division of Health Licensing reference and replace with the Department.

61-91.803.A Surgical Services Section 61-91.803.A revised language to clarify if Surgical Services are provided.

61-91.804.A Anesthesia Services (I) Section 61-91.804.A revised language to clarify if Anesthesia Services are provided.

61-91.901.C General (II) This section revises 61-91.901.C to delete the Division of Health Licensing reference.

61-91.1001 General (I) This section revises 61-91.1001.D.5 to delete the Division of Health Licensing reference.

61-91.1006 Medication Storage

The revision corrects the spelling of the word "Pharmacopeia" in section 61-91.1006.C and revises sections 61-91.1006.E and 61.91.1006.F to delete the Division of Health Licensing reference.

61-91.1007 Disposition of Medication (I) This section revises 61-91.1007.B to delete the Division of Health Licensing reference.

61-91.1101 General (II) This section revises 61-91.1101.A to delete the Division of Health Licensing reference.

61-91.1303 Fire Response Training The revision corrects a grammatical error in section 61-91.1303.A.5 by adding the word "and."

61-91.1402 Equipment (II) This section revises 61-91.1402.B.2 to delete the Division of Health Licensing reference.

61-91.1403 Preventive Maintenance of Life Support Equipment The revision corrects a grammatical error in section 61-91.1403. A by adding the word "and."

61-91.1505 Tuberculosis Risk Assessment (formerly Tuberculin Skin testing) This section is revised to the current Tuberculosis Risk Assessment standards.

61-91.1506 Staff Tuberculosis Screening61-91.1507 Inpatient/Outpatient Tuberculosis ScreeningThese two new sections were added to clarify the current Tuberculosis Screening standards.

61-91.1506, Housekeeping; 1507, Infectious Waste; and 1508, Clean/Soiled Linen and Surgical Clothing were renumbered respectively to 61-91. 1508, 1509, and 1510 to adjust outline. No substantive changes.

61-91.1702 Local and State Codes and Standards (II). This section was revised to delete the requirements at 61-91.1702.B and 61-91.1702.C. The outline was adjusted accordingly.

61-91.1703 Applicable Code Editions (II) The section 61-91.1703 was revised to delete outdated references and correct the current standards.

61-91.1704. Submission of Plans and Specifications (II) This section was revised to clarify requirements for Submission of Plans Specifications.

61-91.1705. Construction Inspections This new section was added to clarify construction inspections.

61-91.1801. Height and Area Limitations (II) This section was deleted. The deleted section was consolidated into revised section 1700.

61-91.1802. Fire-Resistive Resistive Rating (I) This section was renumbered to 1801 to adjust outline and revised to update to applicable codes.

61-91.1803, Vertical Openings (I); 1804. Wall and Partition Openings (I); 1805, Ceiling Openings (I); 1806, Fire Walls (I); 1807, Windows/Mirrors (II) were deleted. The deleted sections were consolidated into revised section 1700.

61-91.1808 Floor and Wall Finishes (II)

This section was renumbered to 61-91.1802 to adjust outline. The section was revised to delete 61-91.1808.A, B, C, D, E, F, G, H, and J. The deleted sections were consolidated into revised section 1700.

61-91.1809 Ceilings

The section 61-91.1809 was deleted. The deleted sections were consolidated into revised section 1700.

61-91.1900 Hazardous Elements of Construction

This section was deleted in entirety. The deleted section has been consolidated into revised section 2100 (formally section 2500).

61-91.2000 Exits

This section was deleted in entirety. The deleted section has been consolidated into revised section 2100 (formally section 2500).

61-91.2100. Fire Protection Equipment and Systems

This section was renumbered to 61-91.1900, and subsections therein were renumbered accordingly to adjust outline; the section was revised in entirety. This section was revised to current Fire Protection Equipment and Systems requirements.

61-91.2200. Water Supply/Hygiene

This section was deleted in entirety. The deleted section has been consolidated into revised section 2100 (formally section 2500).

61-91.2300. Electrical

This section was renumbered to 61-91.2000, and subsections therein were renumbered accordingly to adjust outline; this section was revised in entirety. This section was revised to current Electrical requirements.

61-91.2400. Heating, Ventilation, and Air Conditioning

This section was deleted in entirety. The deleted section has been consolidated into revised section 2100 (formally section 2500).

61-91.2500. Physical Plant

This section was renumbered to 61-91.2100, and subsections therein were renumbered accordingly to adjust outline; this section was revised in entirety. Deleted sections from previous sections have been consolidated into the revised section. Section 2109.B (formally 2509.B) was revised to current handrail/guardrail requirements. Section 2110.F (formally 2510.F) was updated to restroom codes.

61-91.2600. Severability and 61-91.2700, General

These sections were renumbered to 61-91.2200 and 61-91.2300 respectively to adjust outline. No substantive 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 July 10, 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 Department 24 hours in advance of the meeting at the following the address: http://www.scdhec.gov/regulatory.htm. 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 June 23, 2014, the close of the public comment period. Written comments received by the June 23, 2014, deadline shall be considered by the Department in formulating the final proposed regulation for public hearing on July 10, 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* <u>http://www.scdhec.gov/regulatory.htm</u>. (Click on the *Update*, the Health Facilities & Services category, and scan down for this proposed amendment).

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.61-9, Standards for Licensing Ambulatory Surgical Facilities.

Purpose: The purpose of the amendment is to revise the language to remove unduly financial burden on an entity involved in licensee change. 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 Section 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, copies of the regulation will be available electronically on the South Carolina Legislature Online website and the Department's regulation development website (<u>http://www.scdhec.gov/regulatory.htm</u>). 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.61-91 June 27, 2003. 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 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: 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 standards of licensure, procedures, and construction requirements for ambulatory surgical facilities 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 construction requirements while providing standards in the interest of patient care and safety for the ambulatory surgical facilities.

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 will be placed on ambulatory surgical facilities. The amendments improve the construction requirements to be current with building codes and fire and life safety codes and delete the requirement for having to come into compliance with current codes upon change of ownership.

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 update 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. 4464 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61 Statutory Authority: 1976 Code Section 44-7-260

61-93. Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence

Preamble:

Regulation 61-93 was last substantively amended on May 25, 2001. The purpose of the regulation is to provide a set of minimum licensing standards for facilities that treat individuals for psychoactive substance abuse or dependence. Psychoactive substance abuse or dependence facilities provide specialized structured psychoactive substance abuse/dependence care/treatment, including outpatient services including narcotic and methadone treatment programs, and inpatient services including residential treatment and/or detoxification. The purpose of this amendment is to revise the language regarding urine testing and to remove unduly financial burden on entities involved in licensee change. In addition, stylistic changes were included for corrections for clarity and readability, grammar, references, codification and overall improvement of the text of the regulation.

A Notice of Drafting was published in the State Register on March 28, 2014.

Section-by-Section Discussion of Proposed Amendments

Statutory authority for this regulation is added under the title of the regulation and before the table of contents.

TABLE OF CONTENTS

The table was revised to reflect the proposed amendments.

PART I - ALL FACILITIES

61-93.102. References

This amendment revises 61-93.102.B to delete references no longer available.

61-93.103. License Requirements

This section deletes language at 61-93.103.C and 61-93.103.D to ease the burden of construction requirements and remaining subsections were renumbered to adjust outline. 61-93.103.J (formerly I) was amended to add item 7 that the Department may charge a fee for plan reviews, construction inspections and licensing inspections.

61-93.503. Health Status (I) Section 503.A was revised to the correct reference for Tuberculosis Risk Assessment.

61-93.601. Incidents/Accident (II) The title and text of this section was revised to current standards of accident/incident reporting.

61-93.602. Fire/Disasters Sections 61-93.602.A and 61-93.602.B were revised to remove the Division of Health Licensing reference and replace with the Department.

61-93.604. Administrator Change

This section is revised to remove the Division of Health Licensing reference and replace with the Department.

61-93.607. Emergency Placements

This section is revised to remove the Division of Health Licensing reference and replace with the Department.

61-93.608. Facility Closure This section revises 61-93.608.A and B to remove the Division of Health Licensing reference and replace with the Department.

61-93.609. Zero Census This section is revised to remove the Division of Health Licensing reference and replace with the Department and to clarify payment of a licensing fee.

61-93.703. Record Maintenance Sections 61-93.703. E and F are revised to remove the Division of Health Licensing reference and replace with the Department.

61-93.804. Treatment of Minors (II) Section 804.A is revised to remove the Division of Health Licensing reference and replace with the Department.

61-93.902. Client Rights (II) This section revises 61-93.902.A.3 to remove the Division of Health Licensing reference and replace with the Department.

61-93.1001. General (I) Section 61-93.1001.A.2 is revised to the correct reference for Tuberculosis Risk Assessment.

61-93.1106. General (I)

Section 61-93.1106.D is added language to for clarity for freestanding medical detoxification facilities for stock of legend medications.

61-93.1201. General (II) Section 61-93.101.A and C are revised to remove the Division of Health Licensing reference and replace with the Department.

61-93.1203. Food Equipment and Utensils (II) This amendment revised the Exception in this section to remove the Division of Health Licensing reference and replace with the Department.

61-93.1302. Preventive Maintenance of Emergency Equipment and Supplies (II) This is a new section added to clarify preventive maintenance procedures.

61-93.1402.Tuberculosis Risk Assessment (formerly Tuberculin Skin testing) This section is revised to the current Tuberculosis Risk Assessment standards.

61-93.1403. Staff Tuberculosis Screening61-93.1404. Inpatient/Outpatient Tuberculosis ScreeningThese two new sections were added to clarify the current Tuberculosis Screening standards.

61-93.1403, 1405, 1406, 1407 and 1408 were renumbered to 61-93.1405, 1406, 1407 and 1408 to adjust outline. No substantive changes.

61-93.1502. Disaster Preparedness (II)

Section 61-93.1502.A was revised to remove the Division of Health Licensing reference and replace with the Department.

Section 61-93.1502.B.1.c was revised to delete counties no longer required to have at least one sheltering facility.

61-93.1601. Arrangements for Fire Department Response (I) Section 61-93.1601.B was revised to remove the Division of Health Licensing reference and replace with the Department.

61-93.1602. Tests and Inspections (I) This section was deleted. The deleted section was consolidated into revised section 1800.

61-93.1603. Fire Response Training This section was renumbered to 61-93.1602 to adjust outline.

61-93.1604. Fire Drills (I) This section was renumbered to 61-93.1603 to adjust outline. Section 1604.B was revised to clarify the number of clients.

61-93.1801. General (II) The title was changed to "Codes and Standards" and the section was revised to delete outdated references and correct the current standards.

61-93.1802. Local and State Codes and Standards (II). This section was revised to delete the requirement at 61-93.1802.B. The outline was adjusted accordingly.

61-93.1804. Submission of Plans and Specifications (II) This section was revised to clarify requirements for Submission of Plans Specifications.

61-93.1805. Construction Inspections This new section was added to clarify construction inspections.

61-93.1901. Height and Area Limitations (II) This section was deleted. The deleted section was consolidated into revised section 1800.

61-93.1902. Fire-Resistive Resistive Rating (I) This section was renumbered to 1901 to adjust outline and revised to update to applicable codes.

61-93.1903, Vertical Openings (I); 1904. Wall and Partition Openings (I); 1905, Ceiling Openings (I); 1906, Fire Walls (I); 1907, Floor Finishes (H); and 1908, Wall Finishes (I) were deleted. The deleted sections were consolidated into revised section 1800.

61-93.1909. Curtains and Draperies This section was renumbered to 61-93.1902 to adjust outline. No substantive changes.

61-93.2000. Hazardous Elements of Construction.

This part was deleted in entirety. The deleted section has been consolidated into revised section 2200 (formally section 2600).

61-93.2100. Fire Protection Equipment and Systems

This section was renumbered to 61-93.2000, and subsections therein were renumbered accordingly to adjust outline; the section was revised in entirety. This section was revised to current Fire Protection Equipment and Systems requirements.

61-93.2200. Exits

This section was deleted in entirety. The deleted section has been consolidated into revised section 2200 (formally section 2600).

61-93.2300. Water Supply/Hygiene

This section was deleted in entirety. The deleted section has been consolidated into revised section 2200 (formally section 2600).

61-93.2400. Electrical

This section was renumbered to 61-93.2100, and subsections therein were renumbered accordingly to adjust outline; this section was revised in entirety. This section was revised to current Electrical requirements.

61-93.2500. Heating, Ventilation, and Air Conditioning

This section was deleted in entirety. The deleted section has been consolidated into revised section 2200 (formally section 2600).

61-93.2600. Physical Plant

This section was renumbered to 61-93.2200, and subsections therein were renumbered accordingly to adjust outline; this section was revised in entirety. Deleted sections from previous sections have been consolidated into the revised section.

61-93.2700. Severability and 61-93.2800, General

These sections were renumbered to 61-93.2300 and 61-93.2400 respectively to adjust outline. No substantive changes.

PART II - OUTPATIENT FACILITIES

61-93.2900. Outpatient Facilities

This section was renumbered to 61-93.2500, and subsections therein were renumbered accordingly to adjust outline. No substantive changes.

PART III - RESIDENTIAL TREATMENT PROGRAM FACILITIES

61-93.3000. Program Description

This section was renumbered to 61-93.2600, and subsections therein were renumbered accordingly, to adjust outline. No substantive changes. Section 61-93.2601.B.3 (formally Section 61-93.3001.B.3) corrected the spelling of "judgment."

PART IV - DETOXIFICATION FACILITIES

61-93.3100. Program Description

This section was renumbered to 61-93.2700 and subsections therein were renumbered accordingly to adjust outline. Section 2701.B (formally 3101.B) was revised to clarify the appropriate action for Freestanding Medical Detoxification Facilities to recognize and evaluate significant signs and symptoms of medical distress.

PART V - NARCOTIC TREATMENT PROGRAMS

61-93.3200. Program Description

This section was renumbered to 61- 93.2800, and subsections therein were renumbered accordingly, to adjust outline. Section 2808.A.8 (formally 3208.A.8) was revised to reference the revised section regarding Tuberculosis Screening. Section 2809.G (formally 3209.G) revised language to clarify the random urine drug testing on a monthly basis. Section 2809.H (formally 3209.H) deleted yearly reference to current Clinical Laboratory Improvement Amendment standards.

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 July 10, 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/regulatory.htm. 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 June 23, 2014, the close of the public comment period. Written comments received by the June 23, 2014, deadline shall be considered by the Department in formulating the final proposed regulation for public hearing on July 10, 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* <u>http://www.scdhec.gov/regulatory.htm</u>. (Click on the *Update*, the Health Facilities & Services category, and scan down for this proposed amendment).

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).

32 PROPOSED REGULATIONS

DESCRIPTION OF REGULATION: R.61-93, Standards for Licensing Facilities that Treat Individuals for Psychoactive Substance Abuse or Dependence.

Purpose: The purpose of this amendment is to revise the language regarding urine testing and to remove unduly financial burden on entities involved in licensee change. In addition, stylistic changes were included for corrections for clarity and readability, grammar, references, codification and overall improvement of the text of the regulation.

Legal Authority: 1976 Code Section 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, copies of the regulation will be available electronically on the South Carolina Legislature Online website and the Department's regulation development website (<u>http://www.scdhec.gov/regulatory.htm</u>). 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.61-93 May 25, 2001. 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 improve the procedures regarding urine testing for clients in the narcotic treatment program. The proposed amendments, also, improve the construction requirements regarding the licensee. 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 standards of licensure, procedures, and requirements for facilities that treat individuals for psychoactive substance abuse or dependence while maintaining the interests of patient health and safety and lessening provider burdens. The amendments will reasonably simplify the narcotic treatment program while providing standards in the interest of patient care and safety for the treatment of individuals for psychoactive substance abuse or dependence.

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 narcotic treatment programs while providing standards in the interest of patient care and safety for the treatment of individuals for psychoactive substance abuse or dependence.

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 facilities that treat individuals for psychoactive substance abuse or dependence.

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 improve the requirements regarding clients granted take-home dosages and random drug testing. The amendments update the references to building codes, constructions requirements, and fire and life safety codes.

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. 4457 **DEPARTMENT OF SOCIAL SERVICES** CHAPTER 114 Statutory Authority: 1976 Code Section 43-1-80; Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96)

114-1140. Financial Criteria114-1150. Determination of Benefits

Snyopis:

The South Carolina Department of Social Services is amending Regulations 114-1140 and 114-1150 regarding the Family Independence program.

The Notice of Drafting was published in the State Register on February 28, 2014.

Instructions:

Replace Regulations 114-1140 and 114-1150 as shown below. All other items and sections remain unchanged.

Text:

114-1140. Financial Criteria.

A. Need Standard

(1) The Department has a fully consolidated need standard and all needs are included in a flat amount per family size.

(2) The FI need standard, by family size, is set by the Department at fifty percent of the current year's "Health and Human Services Poverty Guidelines for All States (except Alaska and Hawaii) and the District of Columbia." The Department shall adjust the need standard annually after the State's General Appropriation Act is passed and signed by the Governor. The standard will be uniformly applied throughout the State.

(3) The Department does not meet full need as defined by its need standard; therefore, it uses a ratable reduction to control the amount of the benefit. The need standard, by family size, multiplied by the ratable reduction percentage determines the Department's Payment Standard. The ratable reduction is set by the Department annually based on the amount of money appropriated for FI benefits in the General Appropriations Act, also taking into account the anticipated number of FI recipients to whom benefits will be paid in the next State fiscal year. The Department may adjust the ratable reduction during the fiscal year if the anticipated number of recipients increases or decreases. The need standard, payment standard and ratable reduction are available at the Department's State Office, Columbia, South Carolina.

(4) The FI benefit will be rounded down to the next lower whole dollar when the result of determining the standard of need or the payment amount is not a whole dollar. Proration to determine the amount of payment for the month of application must occur before rounding to determine the payment amount for that month.

(5) In the case of FI, no payment of assistance shall be made to an assistance unit in any month in which the amount of assistance prior to any adjustments is determined to be less than ten dollars.

(6) An assistance unit that is denied assistance because of the limitation specified in (5) of this section or because the payment amount is determined to be zero as a result of rounding down the payment shall be deemed a recipient for all other purposes.

(7) A month in which a recipient does not receive a cash benefit, regardless of the reason, does not count as a month against the time limit.

B. No Benefit Increase for a Child Born Ten Months after Receipt of Family Independence Benefits.

(1) In determining the size of the BG for eligibility and payment determination, there must be no increase in BG size due to a child born to an FI recipient ten or more months after the BG begins to receive FI.

(a) This does not include a child born to a minor mother who is required to be in her mother's BG.

(b) Income and resources of this child are counted in the FI eligibility and benefit calculation.

(c) This provision does not apply if it is determined that this child was conceived as a result of rape or incest.

(2) The Department may provide vouchers for a child born ten months or more after initial receipt of FI assistance. The vouchers may be used to pay for goods and services for the child, as determined by the Department, which will enable the mother to participate in education, training and employment related activities. The Department will determine the monthly amount to be expended for these services dependent on the funds available.

C. Resource Limit and Exclusions. The amount of real and personal property that can be reserved for each assistance unit shall not be in excess of twenty-five hundred dollars equity value excluding only:

(1) The home and its contiguous property (even if separated by public right-of-ways) which is the usual residence of the assistance unit;

(2) One burial plot (as defined by the Department) for each member of the assistance unit;

(3) Bona fide funeral agreements (as defined by State law) up to fifteen hundred dollars in value, plus any interest accrued, for each member of the assistance unit;

(4) Real property which the family is making a good faith effort (as defined by the Department) to sell. A good faith effort means agreeing to sell the property at the current market value and putting the property up for sale in the area where it commands a market.

(5) Basic maintenance items essential to day-to-day living such as clothes, furniture and other similarly essential items of limited value.

(6) The cash value of life insurance policies.

(7) Items of assistance technology for a handicapped person required to develop or maintain life or work skills, such as a power wheel chair or computer shall not count against the two thousand five hundred dollar resource limit. Adaptive items added to a care or van shall not increase its book value.

D. Special Benefit Payment Situations.

(1) Payment is made for the entire month, except the month of application, to or for a family which, for any portion of the month, met all of the eligibility conditions, provided the family was eligible on the date payment was made.

(2) Payment is made for the entire month in the course of which a child leaves the home of a specified relative, provided payments are not made for a concurrent period for the same child in the home of another relative or while the child is in a foster care home.

(3) Payment is made to persons acting for relatives in emergency situations that deprive a child of the care of the relative through whom he has been receiving benefits for a temporary period necessary to make and carry out plans for the child's continuing care and support.

E. Vehicles. One licensed vehicle per budget group not to exceed ten thousand dollars fair market value (as determined by N.A.D.A. Official Used Car Guide or equivalent publication) is exempt from the asset limit.

F. Inaccessible Resources. The following resources are considered to be inaccessible and are not counted against the FI resource limit:

(1) Security deposits being held on rental property or utilities.

(2) Property in probate or awaiting probate (includes property of individuals who die intestate).

(3) Property in Chapter 13 bankruptcy unless exempted from bankruptcy proceedings by the Bankruptcy Court and the Trustee in Bankruptcy.

(4) Property in equitable or existing trust where one individual holds the title to the property but another non-budget group member pays the purchase price, including monthly payments, and is responsible for the general upkeep of the property. This principle applies to both liquid and non-liquid resources.

(5) Property with multiple owners when it is not possible to obtain the consent of all the owners to sell the property.

G. Transfer of Resources.

(1) A budget group member that has transferred a countable resource(s) may be sanctioned for up to one year if:

(a) The resource(s) was transferred within the three-month period immediately preceding the application filing date; and

(b) The resource(s) was transferred for the purpose of qualifying for benefits; or

(c) The resource(s) was transferred at any time after approval for benefits.

(2) The length of the disqualification period is based on the amount by which the transferred resource(s) when added to other countable resources exceeds the allowable resource limit. For applicant households, the disqualification period begins with the month of application; for recipient households, the month after the timely notice is received.

(3) Disqualification Periods:

\$0	to	\$249.99	1 month
250	to	999.99	3 months
1,000	to	2,999.99	6 months
3,000	to	4,999.99	9 months
5,000	to	and up	12 months

(4) Transfer of resources will not result in disqualification when:

(a) The resource would have been excluded; or

(b) The resource was sold or traded at the approximate fair market value; or

(c) The resource was transferred to another eligible or sanctioned budget group member; or

(d) The resource was transferred for a reason other than qualifying for benefits.

H. Irrevocable Trusts. The funds in an irrevocable trust are considered inaccessible to the budget group; however, any income paid from the trust to the budget group is counted as unearned income.

I. Individual Development Accounts.

(1) A savings account owned by a recipient and designated by the recipient as an Individual Development Account (IDA) which has a value of ten thousand dollars or less is excluded from the FI resource limit.

(2) A savings account owned by an FI recipient prior to application, with a value of two thousand five hundred dollars or less, may be converted to an IDA.

(3) A lump sum payment of ten thousand dollars or less deposited in an IDA within thirty days will not be counted as income.

(4) Funds in an IDA in excess of ten thousand dollars are counted against the two thousand five hundred dollar resource limit.

J. Requirement to Apply for Available Benefits. The Department will establish and carry out policies with reference to applicants' and recipients' potential sources of income which provide for their being developed to a state of availability.

K. JTPA Income of Adults and Children.

(1) Earned or unearned income received by minor children from Job Training Partnership Act (JTPA) Programs is disregarded in eligibility and benefit computations.

(2) Earned income received by adults, after appropriate disregards are granted, is counted in the budget.

(3) Unearned income received by adults, designated by JTPA as being for training expenses is excluded.

L. Disregard of Child Support Payments Made by a Budget Group Member to a Non-Budget Group Member. Child support payments made by a budget group member to legal dependents who are not budget group members may be deducted from the income of the payor.

M. Garnished Wages. A garnishment from wages is not excludable income.

N. Exclusions from Income. In determining the availability of income and resources, the following will not be included as income:

(1) The earned income of dependent children is excluded in the FI gross income limit test and the need and benefit determination.

(2) Up to four hundred dollars of interest and dividends per benefit group may be excluded annually.

(3) Vendor payments made by a third party who is not a member of the budget group are excluded from income.

(4) In-kind income received by the benefit group is excluded.

(5) Grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs.

(6) Home produce of an applicant or recipient, utilized by him and his household for their own consumption.

(7) Small nonrecurring gifts not to exceed \$100 per recipient in any quarter.

(8) Payments made to FI recipients known as "child support gap payments" which are made from the child support payments from absent parents collected by the Office of Child Support Enforcement of the Department of Social Services.

(9) Assistance from other agencies and organizations will be excluded in determining the amount of assistance to be paid, provided that no duplication shall exist between such other assistance and that provided by the FI Program. In such complementary program relationships, nonduplication shall be assured by the fact that FI funds are insufficient to meet the total amount of money determined to be needed in accordance with the statewide standard. In such instances, grants by other agencies in an amount sufficient to make it possible for the individual to have the amount of money determined to be needed, in accordance with the FI standard, will not constitute duplication.

(10) Payments for home energy assistance will be excluded if certified by the Division of Economic Opportunity, Office of the Governor (or its successor), as being based on need.

(11) The principal of a bona fide loan will not be counted as income or a resource in the determination of eligibility and the amount of assistance. Interest earned on a loan is counted as unearned income in the month received and as a resource thereafter. Purchases made with a loan are counted as resources.

(12) The value of a governmental rent or housing subsidy is not counted as income.

(13) The value of the U.S. Department of Agriculture Food Stamp benefits or donated foods (surplus commodities).

(14) Relocation allowances paid to a recipient by the Family Independence Program.

(15) A Child Care deduction of two hundred dollars per month per dependent child, under age 12, will be subtracted from the gross earned or unearned income of families applying for Family Independence benefits. To be eligible for this deduction, the family must incur a child care expense for a dependent child(ren) living in the home. This deduction may only be given in the month of application and the two subsequent months.

O. Disregarded Income and Resources. In determining eligibility and the amount of the assistance payment, the following will be disregarded as income and resources:

(1) Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(2) Grants or loans to any undergraduate student for educational purposes made or insured under any programs administered by the Secretary of Education except the programs under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.). Student financial assistance provided under the Carl D. Perkins Vocational Act will be disregarded in accordance with paragraph (a)(4)(ii)(t) of this section.

(3) Any funds distributed per capital to or held in trust for members of any Indian tribe under Public Law 92-254 or Pub. L. 94-540.

(4) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1995, as amended.

(5) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of Pub. L. 93-113.

(6) Payments to applicants or recipients participating in the Volunteers in Service to America (VISTA) Program, except that this disregard will not be applied when the Director of ACTION determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938, or the minimum wage under the laws of the States where the volunteers are serving, whichever is greater. (Section 404(g) of Pub. L. 93-113, as amended by Section 9 of Pub. L. 96-143).

(7) The value of supplemental food assistance received under the Child Nutrition Act of 1966 as amended, and the special food service program for children under the National School Lunch Act, as amended (Pub. L. 92-433 and Pub. L.93-150).

(8) Pursuant to Section 15 of Pub. L. 100-241, any of the following distributions made to a household, an individual Native, or a descendant of a Native by a Native Corporation established pursuant to the Alaska Native Claims Settlement Act (ANCSA) (Pub. L. 92-203, as amended):

(a) Cash distributions (including cash dividends on stock from a Native Corporation) received by an individual are never counted as income or resources to the extent that such cash does not in the aggregate, exceed \$2,000 in a year. Cash which, in the aggregate, is in excess of \$2,000 in a year is not subject to the income and resources disregards;

(b) Stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

(c) A partnership interest;

(d) Land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

(e) An interest in a settlement trust.

(9) Benefits paid to eligible households under the Low Income Home Energy Assistance Act of 1981 pursuant to Section 2605(f) of Pub. L. 97-35.

(10) Effective October 17, 1975, pursuant to Section 6 of Pub. L. 94-114 (89 Stat. 577, 25 U.S.C. 459e), receipts distributed to members of certain Indian tribes which are referred to in Section 4 of Pub. L. 94-114 (89 Stat. 577, 25 U.S.C. 459d).

(11) Pursuant to Section 7 of Pub. L. 93-134, as amended by Section 4 of Pub. L. 97-458. Indian judgment funds that are held in trust by the Secretary of the Interior (including interest and investment income accrued while such funds are so held in trust), or distributed per capita to a household or member of an Indian tribe pursuant to a plan prepared by the Secretary of the Interior and not disapproved by a joint resolution of the Congress, and initial purchases made with such funds. This disregard does not apply to proceeds from the sale of initial purchases, subsequent purchases made with funds derived from the sale or conversion of the initial purchases, or to funds or initial purchases which are inherited or transferred.

(12) Pursuant to Section 2 of Pub. L. 98-64, all funds held in trust by the Secretary of the Interior for an Indian tribe (including interest and investment income accrued while such funds are so held in trust) and distributed per capita to a household or member of an Indian tribe, and initial purchases made with such funds. This disregard does not apply to proceeds from the sale of initial purchases, subsequent purchases made with funds derived from the sale or conversion of initial purchases, or to funds or initial purchases which are inherited or transferred.

(13) Any student financial assistance provided under programs in Title IV of the Higher Education Act of 1965, as amended, and under Bureau of Indian Affairs education assistance programs.

(14) For FI, any payments made as restitution to an individual under Title I of Public Law 100-383 (the Civil Liberties Act of 1988) or under Title II of Public Law 100-383 (the Aleutian and Pribilof Islands Restitution Act).

(15) Any Federal major disaster and emergency assistance provided under the Disaster Relief Act of 1974, as amended by Public Law 100-707 (the Disaster Relief and Emergency Assistance Amendments of 1988) and comparable disaster assistance provided by States, local governments and disaster assistance organizations.

(16) Any payments made pursuant to the Settlement in the In Re Agent Orange Product liability litigation, M.D.L. No. 381 (E.D.N.Y.).

(17) Student financial assistance made available for the attendance costs defined in this paragraph under programs in the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.). Attendance costs are: tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and an allowance for books, supplies, transportation, dependent care and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

(18) For FI, any payments made pursuant to Section 6(h)(2) of Public Law 101-426, the Radiation Exposure Compensation Act.

P. Determination of Need and Amount of Assistance. After all policies governing the reserves and allowances and disregard or setting aside of income and resources referred to in this section have been uniformly applied:

(1) In determining need, financial eligibility and the amount of the assistance payment all remaining income shall be considered in relation to the State's need standard.

(2) Income and resources are considered available both when actually available and when the applicant or recipient has a legal interest in a liquidated sum and has the legal ability to make such sum available for support and maintenance.

(3) Income tax refunds shall be considered as resources.

(4) Lump sum payments shall be treated as resources for applicants and recipients. When the lump sum includes a payment for the current month, that amount is treated as income.

(5) Income received by individuals employed on a contractual basis may be prorated over the period of the contract; or intermittent income received quarterly, semiannually, or yearly may be prorated over the period covered by the income.

(6) Child support payments made directly to the FI benefit group are counted as unearned income.

(7) Income of aliens who would be FI budget group members except that their alien status disqualifies them will have their income counted toward the budget group.

(8) Income of sanctioned budget group members will have their income counted toward the budget group.

(9) In family groups living together, income of the spouse is considered available for the budget group and income of a parent(s) is considered available for dependent children under 19. If an individual is a spouse or parent who is a recipient of SSI benefits under Title XVI, an individual with respect to whom Federal foster care payments are made, an individual with respect to whom State or local foster care payments are made, an individual with respect to whom Federal adoption assistance payments are made, or an individual with respect to whom State or local adoption assistance payments are made, then, for the period for which such benefits or payments are received, his or her income and resources shall not be counted as income and resources available to the FI unit.

(10) A minor parent recipient living in the home will have income deemed to the minor parent budget group from his or her parent's income. The amount of income to be deemed shall be determined by computing the parent's gross monthly income and then subtracting an amount equal to the monthly gross income limit for a family size comprised of the parents and their legal dependents exclusive of the minor parent; the remainder is the amount of deemed income.

Q. Recovery of Overpayments and Correction of Underpayments.

(1) The Department will specify uniform statewide procedures for recovery of overpayments of assistance, including overpayments resulting from assistance paid pending hearing decisions. Overpayment means a financial assistance payment received by or for an assistance unit for the payment month which exceeds the amount for which that unit was eligible.

(a) Any recovery of an overpayment to a current assistance unit, including a current assistance unit or recipient whose overpayment occurred during a prior period of eligibility, must be recovered through repayment (in part or in full) by the individual responsible for the overpayment or by recovering the overpayment through reducing the amount of any assistance payable to the assistance unit of which he or she is a member, or both.

(b) If recovery is made from the grant, such recovery shall result in the assistance unit retaining, for any payment month, from the combined assistance, income, and liquid resources not less than 90 percent of the amount payable to a family of the same composition with no other income. If the Department chooses to recover at a rate less than the maximum, it must recover promptly.

(c) The Department shall recover an overpayment from:

(i) the assistance unit which was overpaid, or

(ii) any assistance unit of which an adult member of the overpaid assistance unit has subsequently become a member, or

(iii) any adult members of the overpaid assistance unit whether or not currently recipients. If the Department recovers from individuals who are no longer recipients, or from recipients who refuse to repay the overpayment from their income and resources, recovery shall be made by appropriate action under State law against the income or resources of those individuals, or

(iv) any assistance unit of which an adult member accessed all or part of their monthly payment at a liquor store, a casino, gambling casino or gaming establishment, or an adult-oriented entertainment establishment. The amount of the overpayment shall equal the amount accessed at any of the locations listed in 114-1150(F).

(d) If through recovery, the amount payable to the assistance unit is reduced to zero, members of the assistance unit are still considered recipients of FI.

(e) In cases which have both an underpayment and an overpayment the Department must take one of the following three actions by the end of the quarter following the quarter in which the overpayment is first identified:

(i) recover the overpayment, or

(ii) initiate action to locate and/or recover the overpayment from a former recipient, or

(iii) execute a monthly recovery agreement from a current recipient's grant, income or resources.

(2) Underpayments. The Department will specify uniform statewide policies for prompt correction of any underpayments to current recipients and those who would be a current recipient if the error causing the underpayment had not occurred. Underpayment means a financial assistance payment received by or for an assistance unit for the payment month which is less than the amount for which the assistance unit was eligible, or failure by the State to issue a financial assistance payment for the payment month to an eligible assistance unit if such payment should have been issued. The number of months for which retroactive underpayment corrections shall not exceed twelve. Retroactive corrective payments shall not be considered as income, or as a resource in the month paid nor in the next following month.

(3) In locating former recipients who have outstanding overpayments the Department should use appropriate data sources such as State Unemployment Insurance files, South Carolina Department of Revenue and Taxation information from tax returns, state automobile registration, IEVS, and other files relating to current or former recipients.

(4) The Department must maintain information on the individual and total number and amount of overpayments identified and their disposition for current and former recipients.

(5) The Department may elect not to attempt recovery of an overpayment from an individual no longer receiving assistance where the overpayment amount is less than \$35. Where the overpayment amount owed by an individual no longer receiving assistance is \$35 or more, the Department can determine when it is no longer cost-effective to continue overpayment recovery efforts, provided it has made reasonable efforts to recover the overpayment from the individual. Reasonable efforts must include notification of the amount of and reasons for the overpayment and that repayment is required.

(6) FI established claims for overpayment of benefits that are thirty-five dollars or greater and are more than ninety days delinquent are referred to the South Carolina Department of Revenue and Taxation and/or the United States Internal Revenue Service for intercept of those claims from tax refunds due persons against whom the claims are established. Clients are given written notification by the Department when delinquent claims are referred for state and/or federal tax intercept.

114-1150. Determination of Benefits.

A. Gross Income Limit. Gross monthly countable earned and unearned income of the Family Independence benefit group must not exceed 185 percent of the need standard by family size. The gross income limit is an initial screen of eligibility for assistance.

B. Earned Income and Unearned Income.

(1) Earned income means gross earned income prior to any deductions for taxes or for any other purposes. Such earned income may be derived from an applicant's or recipient's own employment, such as a business enterprise, or farming; or derived from wages or salary received as an employee. It includes earnings over a period of time for which settlement is made at one given time, as in the instance of the sale of farm crops, livestock, or poultry.

(2) With reference to commissions, wages, or salary, earned income means the total amount, irrespective of personal expenses, such as income-tax deductions, lunches, and transportation to and from work, and irrespective of expenses of employment which are not personal, such as the cost of tools, materials, special uniforms, or transportation to call on customers.

(3) With respect to self-employment income, earned income means the total profit from a business enterprise, farming, etc., resulting from a comparison of the gross receipts with the business expenses (i.e., expenses directly related to producing the goods or services and without which the good or services could not be produced). The profit shall be as determined using Internal Revenue Service methods.

(4) With regard to the degree of activity, earned income is income produced as a result of the performance of services by a recipient; in other words, income which the individual earns by his own efforts, including managerial responsibilities, would be properly classified as earned income, such as management of capital investment in real estate. Conversely, in the instance of capital investment wherein the individual carries no specific responsibility, such as where rental properties are in the hands of rental agencies and the check is forwarded to the recipient, the income would not be classified as earned income.

(5) Unearned income is any income that does not meet the definitions of earned income above, such as direct child support, social security benefits, interest, dividends and gifts.

(6) Unemployment compensation benefits are treated as unearned income in the budgeting process.

C. Disregard of Earned Income. For purposes of eligibility and benefit determination, provided the benefit group has passed the gross income limit test in item A above, the Department will disregard from earned income:

(1) Fifty percent of the monthly gross countable earned income, of each individual whose needs are included in the budget group, for the first four months in which earned income is countable. This disregard can be received only once in twenty-four months.

(2) One hundred dollars per month from gross countable income of each individual whose needs are included in the budget group, for the remaining months of eligibility after the four months in paragraph (1) above have been exhausted.

(3) Casemanagers will counsel with recipients concerning the advantages and disadvantages of receiving a small FI benefit for a few months versus closing their case and possibly losing transitional Medicaid benefits as opposed to saving their time limited months for a possible future emergency, such as becoming unemployed.

D. Prospective Eligibility and Budgeting. All factors of eligibility shall be determined prospectively and the monthly amount of assistance will be computed based on a best estimate of income and circumstances which will exist in the benefit month. This estimate shall be based on the Department's reasonable expectation and knowledge of current, past, or future circumstances. Monthly income is estimated prospectively based on past income from the previous four weeks and anticipated changes in income. Expenses may be estimated prospectively using the same methodology. Weekly income is multiplied by 4.33 to convert it to monthly income.

E. Payment Determination. To determine the amount of the payment for the benefit group, subtract countable income from the full need standard and multiply the result (deficit) by the ratable reduction.

F. Payment Methods. Money payments made to eligible families may be made by checks, warrants immediately redeemable at par, by electronic benefits transfer, or direct deposit to bank accounts. Family Independence payments are not to be accessed, by electronic transaction using a Point-of-Sale device, ATM, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service, at any of the following locations:

(1) A liquor store. A liquor store means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (within the meaning of section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r)).

(2) A casino, gambling casino or gaming establishment.

(3) An adult oriented entertainment establishment. An adult oriented establishment is defined as a retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

Fiscal Impact Statement:

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

Statement of Rationale:

The proposed regulation is necessary to order to ensure compliance with Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96).