

## **SOUTH CAROLINA STATE REGISTER DISCLAIMER**

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# SOUTH CAROLINA STATE REGISTER

PUBLISHED BY  
THE LEGISLATIVE COUNCIL  
of the  
GENERAL ASSEMBLY

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**Published June 22, 2018**

Volume 42 Issue No. 6

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

# ***SOUTH CAROLINA STATE REGISTER***

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

## **STYLE AND FORMAT**

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

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

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

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

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

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

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

**Executive Orders** are actions issued and taken by the Governor.

## **2018 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	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

## **REPRODUCING OFFICIAL DOCUMENTS**

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

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## **ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS**

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

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

## **EMERGENCY REGULATIONS**

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

## **REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW**

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

## **EFFECTIVE DATE OF REGULATIONS**

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

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

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In order by General Assembly review expiration date  
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4735		SR42-2	Chapter Revisions	1/15/18	Workers' Compensation Commission
4678		SR42-2	Investigation Procedures	1/18/18	South Carolina Human Affairs Commission
4665		SR42-2	Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities	1/19/18	Department of Revenue
4729		SR42-3	Determination of Rates of Tuition and Fees	2/13/18	Commission on Higher Education
4746		SR42-5	Articles 4, 5, 7 and 8 of Chapter 126	5/02/18	Department of Health and Human Services
4740		SR42-5	Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	5/09/18	Department of Health and Envir Control
4758		SR42-5	Investigation and Production of Evidence	5/09/18	South Carolina Human Affairs Commission
4757		SR42-5	Complaint	5/09/18	South Carolina Human Affairs Commission
4754		SR42-5	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	5/09/18	State Board of Education
4752		SR42-5	Employability Credential for Students with Disabilities	5/09/18	State Board of Education
4783		SR42-5	Defined Program 6-8	5/09/18	State Board of Education
4788		SR42-5	Credential Classification	5/09/18	State Board of Education
4789		SR42-5	Application for Teaching Credential	5/09/18	State Board of Education
4781		SR42-5	Transfers and Withdrawals	5/09/18	State Board of Education
4764		SR42-5	Auctioneers' Commission (Late Fees)	5/09/18	LLR
4777		SR42-5	Residential Specialty Contractors License	5/09/18	LLR-Residential Builders Commission
4793		SR42-5	Fee Schedules	5/09/18	LLR-Office of Elevators and Amusement Rides
4776		SR42-5	Real Estate Commission	5/09/18	LLR
4794		SR42-5	Fee Schedule	5/09/18	LLR-Office of Elevators and Amusement Rides
4796		SR42-5	Mechanical Contractors-Air conditioning, Heating and Packaged Equipment	5/09/18	LLR-Contractor's Licensing Board
4768		SR42-5	Definitions	5/09/18	LLR-Perpetual Care Cemetery Board
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4769		SR42-5	Licensure Fees	5/09/18	LLR-Board of Registration for Foresters
4766		SR42-5	Real Estate Appraisers Board	5/09/18	LLR-Real Estate Appraisers Board
4795		SR42-5	Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists	5/09/18	LLR-Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists
4802		SR42-5	Recording and Reporting Occupational Injuries and Illnesses	5/09/18	LLR-OSHA
4799		SR42-5	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	5/09/18	Department of Natural Resources
4803		SR42-5	Adjustment of Claims Under Unusual Circumstances	5/09/18	Department of Insurance
4801		SR42-5	Board of Examiners in Speech-Language Pathology and Audiology	5/09/18	LLR
4760		SR42-5	South Carolina Stroke Care System	5/09/18	Department of Health and Envir Control
4792		SR42-5	Credit for Reinsurance	5/09/18	Department of Insurance
4771		SR42-5	Wilderness Therapeutic Camps for Children	5/09/18	Department of Social Services
4782		SR42-5	Defined Program, Grades 9-12 and Graduation Requirements	5/09/18	State Board of Education
4732		SR42-5	Method of Operations; Application of Federal Truth in Lending Act; Other Cases - Summary Procedure; Delinquent Notification Filing and Fee Payment; and Filing and Posting Maximum Rate Schedules	5/09/18	Department of Consumer Affairs
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4778		SR42-5	Classification of Residential Specialty Contractors	5/09/18	LLR-Residential Builders Commission
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4807	R.193	SR42-5	Benghal Dayflower Quarantine; and Emerald Ash Borer Quarantine		Clemson University-State Crop Pest Comm
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4809			Standards for Licensing Crisis Stabilization Unit Facilities	Withdrawn	Department of Health and Envir Control
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4787	Textbook Adoption Regulation	State Board of Education
4765	Auctioneers' Commission (Exam Fee)	LLR
4761	Board of Registration for Professional Engineers and Surveyors	LLR
4755	Operation of Public Pupil Transportation Services	State Board of Education
4790	Certification Requirements; approval of alternative certification; authorization for the SBE to approve additional alternative certification programs	State Board of Education
4767	Barber Students, Applications, Permits, Training, Progress Reports, and Examinations	LLR-Board of Barber Examiners

# COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 3

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

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4735	Chapter Revisions	Regulations and Admin. Procedures	Judiciary
4678	Investigation Procedures	Regulations and Admin. Procedures	Judiciary
4665	Examples of the Application of Tax to Various Charges Imposed by Hotels, Motels, and Other Facilities	Regulations and Admin. Procedures	Finance
4729	Determination of Rates of Tuition and Fees	Regulations and Admin. Procedures	Education
4746	Articles 4, 5, 7 and 8 of Chapter 126	Regulations and Admin. Procedures	Medical Affairs
4740	Minimum Standards for Licensing Hospitals and Institutional General Infirmaries	Regulations and Admin. Procedures	Medical Affairs
4758	Investigation and Production of Evidence	Regulations and Admin. Procedures	Judiciary
4757	Complaint	Regulations and Admin. Procedures	Judiciary
4754	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	Regulations and Admin. Procedures	Education
4752	Employability Credential for Students with Disabilities	Regulations and Admin. Procedures	Education
4783	Defined Program 6-8	Regulations and Admin. Procedures	Education
4788	Credential Classification	Regulations and Admin. Procedures	Education
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4781	Transfers and Withdrawals	Regulations and Admin. Procedures	Education
4764	Auctioneers' Commission (Late Fees)	Regulations and Admin. Procedures	Labor, Commerce and Industry
4777	Residential Specialty Contractors License	Regulations and Admin. Procedures	Labor, Commerce and Industry
4793	Fee Schedules	Regulations and Admin. Procedures	Labor, Commerce and Industry
4776	Real Estate Commission	Regulations and Admin. Procedures	Labor, Commerce and Industry
4794	Fee Schedule	Regulations and Admin. Procedures	Labor, Commerce and Industry
4796	Mechanical Contractors-Air conditioning, Heating and Packaged Equipment	Regulations and Admin. Procedures	Labor, Commerce and Industry
4768	Definitions	Regulations and Admin. Procedures	Labor, Commerce and Industry
4779	Nurse Licensure Compact	Regulations and Admin. Procedures	Medical Affairs
4798	License Renewal	Regulations and Admin. Procedures	Labor, Commerce and Industry
4770	Audit Program	Regulations and Admin. Procedures	Labor, Commerce and Industry
4769	Licensure Fees	Regulations and Admin. Procedures	Fish, Game and Forestry
4766	Real Estate Appraisers Board	Regulations and Admin. Procedures	Labor, Commerce and Industry
4795	Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists	Regulations and Admin. Procedures	Labor, Commerce and Industry
4802	Recording and Reporting Occupational Injuries and Illnesses	Regulations and Admin. Procedures	Labor, Commerce and Industry
4799	Seasons, Limits, Methods of Take and Special Use Restrictions on Wildlife Management Areas	Regulations and Admin. Procedures	Fish, Game and Forestry
4803	Adjustment of Claims Under Unusual Circumstances	Regulations and Admin. Procedures	Banking and Insurance
4801	Board of Examiners in Speech-Language Pathology and Audiology	Regulations and Admin. Procedures	Medical Affairs
4760	South Carolina Stroke Care System	Regulations and Admin. Procedures	Medical Affairs
4792	Credit for Reinsurance	Regulations and Admin. Procedures	Banking and Insurance
4771	Wilderness Therapeutic Camps for Children	Regulations and Admin. Procedures	General
4782	Defined Program, Grades 9-12 and Graduation Requirements	Regulations and Admin. Procedures	Education
4732	Method of Operations; Application of Federal Truth in Lending Act; Other Cases - Summary Procedure; Delinquent Notification Filing and Fee Payment; and Filing and Posting Maximum Rate Schedules	Regulations and Admin. Procedures	Banking and Insurance
4759	Investigation Procedures	Regulations and Admin. Procedures	Judiciary
4763	Real Estate Appraisers Board	Regulations and Admin. Procedures	Labor, Commerce and Industry
4778	Classification of Residential Specialty Contractors	Regulations and Admin. Procedures	Labor, Commerce and Industry
4775	South Carolina Anti-Money Laundering Act	Regulations and Admin. Procedures	Banking and Insurance
4747	Regulations for the Licensing of Child Care Centers	Regulations and Admin. Procedures	General
4807	Benghal Dayflower Quarantine; and Emerald Ash Borer Quarantine	Regulations and Admin. Procedures	Agriculture and Natural Resources
4800	Standards for Licensing Hospices	Regulations and Admin. Procedures	Medical Affairs
4808	Plant Nursery Regulations	Regulations and Admin. Procedures	Agriculture and Natural Resources
4810	Administrative Procedures	Regulations and Admin. Procedures	Agriculture and Natural Resources
4809	Standards for Licensing Crisis Stabilization Unit Facilities	Regulations and Admin. Procedures	Medical Affairs
4811	Employee's Revocable Authorization of a Deduction of Earnings	Regulations and Admin. Procedures	Banking and Insurance
<b>Permanently Withdrawn</b>			
4785	Disposition of Instructional Materials Samples after State Adoption Process	Regulations and Admin. Procedures	Education
4786	Free Textbooks	Regulations and Admin. Procedures	Education
4787	Textbook Adoption Regulation	Regulations and Admin. Procedures	Education
4765	Auctioneers' Commission (Exam Fee)	Regulations and Admin. Procedures	Labor, Commerce and Industry

#### 4 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

4761	Board of Registration for Professional Engineers and Surveyors	Regulations and Admin. Procedures	Labor, Commerce and Industry
4755	Operation of Public Pupil Transportation Services	Regulations and Admin. Procedures	Education
4790	Certification Requirements; approval of alternative certification; authorization for the SBE to approve additional alternative certification programs	Regulations and Admin. Procedures	Education
4767	Barber Students, Applications, Permits, Training, Progress Reports, and Examinations	Regulations and Admin. Procedures	Labor, Commerce and Industry

**Executive Order No. 2018-17**

**WHEREAS**, I have been notified of the passing of Deputy James L. Kirk, Jr. of the Lancaster County Sheriff's Office, who dutifully served as a law enforcement officer in this State and died in the line of duty; and

**WHEREAS**, Deputy Kirk dedicated his life to protecting and serving the people of the State of South Carolina and the residents of Lancaster County, both with the Lancaster Police Department and with the Lancaster County Sheriff's Office; and

**WHEREAS**, section 1-3-470 of the South Carolina Code of Laws, as amended, authorizes the Governor, on the day of burial or other service for any firefighter or law enforcement officer in this State who died in the line of duty, to order that all flags on state buildings be lowered to half-staff in tribute to the deceased firefighter or law enforcement officer and to request that flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, I hereby Order that all flags on state buildings be lowered to half-staff from sunrise until sunset on Monday, April 30, 2018, in tribute to Deputy Kirk, who died in the line of duty. I request that all flags over the buildings of the political subdivisions of this State similarly be flown at half-staff for this purpose. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT SEAL OF THE STATE OF SOUTH CAROLINA, THIS 30th DAY OF APRIL, 2018.**

**HENRY MCMASTER**  
Governor

**Executive Order No. 2018-18**

**Temporary Suspension of Certain Motor Vehicle Regulations  
Based on State of Emergency in North Carolina**

**WHEREAS**, due to the effects of the remnants of Subtropical Storm Alberto that began on May 27, 2018, and a separate weather system that began on May 15, 2018, the Governor of North Carolina has declared that a State of Emergency exists in the following counties in the State of North Carolina: Alexander, Alleghany, Ashe, Avery, Burke, Buncombe, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Iredell, Lincoln, Jackson, Macon, Madison, McDowell, Mecklenburg, Mitchell, Polk, Rowan, Rutherford, Stanly, Swain, Transylvania, Union, Watauga, and Wilkes ("the Emergency Area"); and

**WHEREAS**, due to the impacts from flooding, road closures, and landslides, the Governor of North Carolina has identified a need to ensure the uninterrupted supply and transportation on North Carolina highways of, *inter alia*, equipment and supplies for utility restoration and debris removal, livestock and poultry and feed for livestock and poultry, and food, medicine, and essential fuels; and

**WHEREAS**, federal law limits the hours operators of commercial motor vehicles may drive vehicles transporting materials pursuant to 49 C.F.R. §§ 390 *et seq.* and establishes certain weight limitations for vehicles on interstate highways pursuant to 23 U.S.C. § 127; and

**WHEREAS**, the Governor of a State may suspend certain requirements relating to registration, permitting, length, width, weight, load, and hours of service for commercial vehicles responding to an emergency if the Governor declares a state of emergency pursuant to 23 U.S.C. § 127, 49 C.F.R. § 390.23; and

## 6 EXECUTIVE ORDERS

**WHEREAS**, by Executive Orders dated May 30, 2018, copies of which are attached hereto as Exhibit A, the Governor of North Carolina has declared that a state of emergency exists in the aforementioned counties and suspended requirements related to registration, permitting, length, width, weight, load, and hours of service for certain commercial vehicles identified below and in Exhibit A; and

**WHEREAS**, whenever a state of emergency is declared in North Carolina that triggers relief under 49 C.F.R. § 390.23, an emergency must be declared in this State pursuant to section 56-5-70(B) of the South Carolina Code of Laws.

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, due to the existing emergency in the State of North Carolina, I hereby declare that a reciprocal emergency exists in the State of South Carolina pursuant to and for the limited purpose of complying with section 56-5-70(B) of the South Carolina Code of Laws. Accordingly, I direct the South Carolina Department of Transportation, the South Carolina Department of Public Safety, and the State Transport Police, as needed, to suspend application and enforcement of federal rules and regulations that establish certain registration, permitting, length, width, weight, load, and hours of service requirements, in conjunction with S.C. Code Ann. §§ 56-5-4010 *et seq.*, which establish size, weight, and load requirements for South Carolina highways, for commercial vehicles responding to the emergency in the State of North Carolina as set forth in Exhibit A.

**IT IS FURTHER ORDERED** that although the federal rules and regulations that restrict registration, permitting length, width, and load requirements are waived, drivers in South Carolina are subject to the following state requirements to ensure safety on the roads:

(a) Weight, height, length, and width for any such vehicle on roadways maintained by the State of South Carolina shall not exceed for continuous travel on all non-interstates, United States, and South Carolina designated routes maximum dimensions of 12' wide, 13'6" high and weights of 90,000 pounds.

(b) Posted bridges may not be crossed.

(c) All vehicles shall be operated in a safe manner, shall not damage the highways nor unduly interfere with highway traffic, shall maintain the required limits of insurance, and shall provide appropriate documentation indicating they are responding to this emergency.

(d) Any dimensions and/or weights of vehicles that exceed the above must obtain a permit with defined routes from the South Carolina Department of Transportation Oversized/Overweight Permit Office. To order a permit, please call (803) 737-6769 during normal business hours, 8:30 a.m. – 5:00 p.m., or (803) 206-9566 after regular business hours.

(e) Transporters are responsible for ensuring they have oversize signs, markings, flags, and escorts as required by the South Carolina Code of Laws relating to oversize/overweight loads operating on South Carolina roadways.

Nothing herein shall be construed as an exemption from the Commercial Driver's License requirements in 49 C.F.R. § 383 or the financial requirements in 49 C.F.R. § 387.

**FURTHER**, Executive Order 45 issued by the Governor of North Carolina on May 30, 2018, provides that it shall remain in effect for thirty (30) days or until the state of emergency ceases, whichever is less. Accordingly, for commercial vehicles responding to the emergency declared in the State of North Carolina, this Order shall take effect immediately and shall expire when the state of emergency in the State of North Carolina is terminated or on June 29, 2018, at 11:59 p.m., whichever is less, in accordance with section 56-5-70 of the South Carolina Code of Laws.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH  
CAROLINA, THIS 31st DAY OF MAY, 2018.**

**HENRY MCMASTER  
Governor**

**Executive Order No. 2018-19**

**Conforming Executive Order 2017-43's Opioid Prescription Limitation  
with Act 201 of 2018**

**WHEREAS**, opioids are a class of drugs that includes prescription pain relievers such as hydrocodone, oxycodone, codeine, and morphine, as well as illegal drugs such as heroin and analogs of the synthetic opioid analgesic fentanyl, such as carfentanyl; and

**WHEREAS**, on December 18, 2017, the undersigned issued Executive Order 2017-42 and Executive Order 2017-43 to combat the growing epidemic caused by the misuse and abuse of opioids and other similar controlled substances, including prescription pain relievers such as hydrocodone, oxycodone, codeine, and morphine; and

**WHEREAS**, Executive Order 2017-43 directed the South Carolina Department of Health and Human Services ("DHHS") to develop and publish a policy limiting initial opioid prescriptions for acute and post-operative pain management to five days for all programs administered by DHHS, to include Medicaid reimbursement; and

**WHEREAS**, when Executive Order 2017-43 was executed, South Carolina law did not limit the length of initial opioid prescriptions, and the State acted to serve as a leader on the management of pain medications and encourage health providers to adopt a common policy on opioid prescribing limitations; and

**WHEREAS**, on May 9, 2018, the General Assembly passed Senate Bill 918, which, *inter alia*, amends section 44-53-360 of the South Carolina Code of Laws so as to establish limitations on initial opioid prescriptions for acute pain management and post-operative pain management to a seven-day supply; and

**WHEREAS**, Senate Bill 918 was subsequently ratified on May 14, 2018, approved by the undersigned on May 15, 2018, and enacted as Act 201 of 2018; and

**WHEREAS**, given the intervening change in the applicable law, the five-day limitation on initial opioid prescriptions for acute pain management and post-operative pain management established by Executive Order 2017-43 should be modified to conform to and be consistent with the provisions of Act 201 of 2018.

## **8 EXECUTIVE ORDERS**

**NOW, THEREFORE**, by virtue of the authority vested in me as Governor of the State of South Carolina and pursuant to the Constitution and Laws of this State and the powers conferred upon me therein, Executive Order 2017-43 is hereby amended to conform to and comport with the provisions of Act 201 of 2018. To ensure uniformity and consistency in application, any conflicts between the provisions of Executive Order 2017-43 and Act 201 of 2018 shall be resolved in favor of Act 201 of 2018 and the resulting changes to the South Carolina Code of Laws, as amended. Accordingly, DHHS shall modify and amend the two-part policy required by Executive Order 2017-43 to include a seven-day limitation on initial opioid prescriptions for acute and post-operative pain management. The DHHS policy shall still include exceptions to this limitation when clinically indicated for situations such as chronic pain, cancer pain, and palliative care. This Order is effective immediately.

**GIVEN UNDER MY HAND AND THE GREAT  
SEAL OF THE STATE OF SOUTH CAROLINA,  
THIS 4th DAY OF JUNE, 2018.**

**HENRY MCMASTER  
Governor**



## DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

## NOTICE OF GENERAL PUBLIC INTEREST

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication June 22, 2018 for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, SC 29201 at (803) 545-3495.

**Affecting Sumter County****Sumter Treatment Specialists, LLC**

Establishment of an outpatient narcotic treatment program at a total project cost of \$156,500.

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from June 22, 2018. "Affected persons" have 30 days from the above date to submit requests for a public hearing to Nic Gerrald, Certificate of Need Program, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-3495.

**Affecting Georgetown County****Myrtle Beach Rehabilitation Hospital, LLC d/b/a Tidelands Health Rehabilitation Hospital**

Transfer of 29 rehabilitation beds from Tidelands Health Waccamaw Community Hospital to Tidelands Health Rehabilitation Hospital at a total project cost of \$65,000.

**Affecting Greenville County****St. Francis Hospital, Inc. d/b/a Bon Secours St. Francis Downtown**

Relocation and expansion of the emergency department with no increase in licensed bed capacity or services at a total project cost of \$37,583,218.

**Affecting Horry County****Tidelands Health ASC, LLC d/b/a Tidelands Health Medical Park at the Market Common Endoscopy Center**

Development of an endoscopy only ambulatory surgery facility at a total project cost of \$10,177,913.

**Affecting Richland County****Providence Hospital, LLC d/b/a Providence Health – Northeast**

Relocation of a diagnostic-only cardiac catheterization laboratory currently located at 2001 Laurel Street to Providence Health Northeast located at 120 Gateway Corporate Boulevard at a total project cost of \$491,000.

## 10 NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

#### NOTICE OF GENERAL PUBLIC INTEREST

DHEC-Bureau of Land and Waste Management, File # 58548  
GE Spartanburg Project Site

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

PLEASE TAKE NOTICE that the South Carolina Department of Health and Environmental Control (the Department) intends to enter into a Voluntary Cleanup Contract (VCC) with Transport Pool Corporation (the Responsible Party). The VCC provides that the Responsible Party, with DHEC's oversight, will fund and perform future response actions at the GE Spartanburg Project facility located in Spartanburg County, at 375 West Main Street, Spartanburg, South Carolina (Site).

Future response actions addressed in the VCC include, but may not be limited to, the Responsible Party funding and performing: a Remedial Investigation (RI) to determine the source, nature, and extent of Contamination at the Site. The investigation should focus on Contamination that can be reasonably interpreted as originating on the Property, and not BTEX, MTBE, and other Petroleum-related Contamination that has been determined to be migrating onto the Property from off-Property, upgradient sources; and, if necessary, a Feasibility Study to evaluate alternatives to clean-up the Site. Further, the Responsible Party will reimburse the Department's future costs of overseeing the work performed by the Responsible Party and other Department response costs pursuant to the VCC.

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

- (1) On-line at <http://www.scdhec.gov/PublicNotices>; or
- (2) By contacting Lucas Berresford at 803-898-0747 or [berresjl@dhec.sc.gov](mailto:berresjl@dhec.sc.gov).

Any comments to the proposed VCC must be submitted in writing, postmarked no later July 23, 2018 and addressed to: Lucas Berresford, DHEC-BLWM-SARR, 2600 Bull Street, Columbia, SC 29201.

Upon the successful completion of the VCC, the Responsible Party will receive a covenant not to sue for the work done in completing the response actions specifically covered in the VCC and completed in accordance with the approved work plans and reports. Upon execution of the VCC, the Responsible Party shall be deemed to have resolved its liability to the State in an administrative settlement for purposes of, and to the extent authorized under CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9613(f)(3)(B), and under HWMA, S.C. Code Ann. Section 44-56-200, for the matters addressed in the VCC. Further, to the extent authorized under 42 U.S.C. Section 9613(f)(3)(B), S.C. Code Ann. Section 44-56-200, the Responsible Party may seek contribution from any person who is not a party to this administrative settlement.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION  
BUILDING CODES COUNCIL**

**NOTICE OF GENERAL PUBLIC INTEREST**

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

Mandatory codes include the:

2018 Edition of the International Building Code;  
2018 Edition of the International Residential Code;  
2018 Edition of the International Fire Code;  
2018 Edition of the International Plumbing Code;  
2018 Edition of the International Mechanical Code;  
2018 Edition of the International Fuel Gas Code;  
2017 Edition of the National Electrical Code.

Permissive codes include the:

2018 Edition of the International Property Maintenance Code;  
2018 Edition of the International Existing Building Code;  
2018 Edition of the International Swimming Pool and Spa Code;  
2018 Edition of the International Performance Code for Buildings and Facilities.

The Council specifically requests comments concerning sections of the proposed editions, which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to Roger K. Lowe, Council Administrator, at PO Box 11329, Columbia, SC 29211-1329, on or before November 21, 2018.

## 12 DRAFTING NOTICES

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Section 44-37-30

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

The Department of Health and Environmental Control (“Department”) proposes amending R.61-80, Neonatal Screening For Inborn Metabolic Errors and Hemoglobinopathies. Interested persons may submit comments on the proposed amendment to Dr. Brent Dixon of the Public Health Laboratories, S.C. Department of Health and Environmental Control, 8231 Parklane Rd., Columbia, S.C. 29223; dixonrb@dhec.sc.gov. To be considered, the Department must receive comments no later than 5:00 p.m. on July 23, 2018, the close of the draft comment period.

#### **Synopsis:**

The Department proposes amending R.61-80. Specifically, the amendments will address storage and usage provisions of the regulation by including a maximum length of time for storage of blood samples. The amendments will also allow for expanded testing to include other congenital disorders or metabolic diseases, while ensuring all testing procedures are in compliance with applicable standards.

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

General Assembly review is required.

### DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL CHAPTER 61

Statutory Authority: 1976 Code Sections 48-5-10 et seq.

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

The Department of Health and Environmental Control (“Department”) proposes repealing Regulation 61-67.1, Requirements for State Water Pollution Control Revolving Fund Loan Assistance. Interested persons may submit comments to Charles Gorman, Water Facilities Permitting Division, Bureau of Water, 2600 Bull Street, Columbia, S.C. 29201 or via email at gormancm@dhec.sc.gov. To be considered, comments must be received no later than 5:00 p.m. on July 23, 2018, the close of the draft comment period.

#### **Synopsis:**

Originally authorized by Title 48, Chapter 6 of the South Carolina Code, R.61-67.1 describes the process the Department and the former South Carolina Budget and Control Board followed in administering State Water Pollution Revolving Funds received in federal grants from the U.S. Environmental Protection Agency (“EPA”). In 1992, the General Assembly repealed Title 48, Chapter 6 and replaced it with the South Carolina Water Quality Revolving Fund Authority Act (Title 48, Chapter 5). Title 48, Chapter 5 provides statutory authority for the Department and the South Carolina Water Quality Revolving Fund Authority to administer the South Carolina clean water and drinking water revolving funds and federal grants received as supplements to the revolving funds from the EPA. The South Carolina Water Quality Revolving Fund Authority is comprised of the members of the State Fiscal Accountability Authority with administrative and implementation support from the South Carolina Rural Infrastructure Authority (“RIA”).

The Department proposes repealing R.61-67.1, as the regulation is outdated due to repeal of the original authorizing statute. The Department does not propose replacing this regulation with a new regulation. The

Department and RIA are able to effectively administer and implement the state revolving fund program using Title 48, Chapter 5, other existing state laws and regulations, and federal laws, regulations, and grant requirements that govern the use of the funds.

General Assembly review is required.

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

**Notice of Drafting:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-93, Standards for Licensing Facilities That Treat Individuals for Psychoactive Substance Abuse or Dependence. Interested persons may submit comment(s) on the proposed amendment to Gwen C. Thompson, Bureau Chief of the Bureau of Health Facilities Licensing; S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; [HealthRegComm@dhec.sc.gov](mailto:HealthRegComm@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on July 23, 2018, the close of the draft comment period.

**Synopsis:**

The Department proposes to amend R.61-93 for provisions relating to staffing, accident and incident reporting, emergency preparedness, construction, and licensure requirements for facilities that treat individuals for psychoactive substance abuse or dependence.

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

General Assembly review is required.

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**  
Statutory Authority: 1976 Code Section 44-63-20

**Notice of Drafting:**

The Department of Health and Environmental Control (“Department”) proposes amending R.61-19, Vital Statistics. Interested persons may submit comments on the proposed amendment to Angie Saleeby, 2600 Bull Street, Columbia, S.C. 29201; or via email at [vrreg@dhec.sc.gov](mailto:vrreg@dhec.sc.gov). To be considered, the Department must receive comments no later than 5:00 p.m. on July 23, 2018, the close of the draft comment period.

**Synopsis:**

The Department proposes amending R.61-19, Vital Statistics, as follows:

1. Revise Section 1104, Documentary Evidence Required to Correct or Amend Vital Records, subsection A.3, to clarify that the State Registrar may, at his or her discretion, allow other documents to be used for amendment of birth records.

2. Revise Section 1105, Addition of Registrant’s First or Middle Names on Live Birth Records, to increase the instances in which names may be administratively added to a birth record.

## 14 DRAFTING NOTICES

3. Update the fee schedule.

4. Add a section in order to implement House Bill 3775, an act to amend Section 44-63-100, Code of Laws of South Carolina, relating in part to original birth certificates of adopted persons. The General Assembly successfully passed H.3775 on May 10, 2018, and the Governor signed the bill into law on May 17, 2018.

These proposed revisions are intended to allow greater flexibility with administrative amendments to birth records, thereby reducing the number of instances in which court orders are required. In addition, the Department's proposed fee increase is needed not only to ensure adequate funding for the program and to maintain current operations, but also for overall improvement in services to constituents and stakeholders. The last fee increase for the Vital Statistics program was July 1, 1998.

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

General Assembly review is required.

Document No. 4815  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
 CHAPTER 61  
 Statutory Authority: 1976 Code Sections 48-1-10 et seq.

61-62. Air Pollution Control Regulations and Standards.

**Preamble:**

Pursuant to the federal Clean Air Act (“CAA”), 42 U.S.C. Sections 7401 et seq., and the South Carolina Pollution Control Act, 1976 Code Sections 48-1-10 et seq., the South Carolina Department of Health and Environmental Control (“Department”) proposes amending South Carolina Regulation 61-62, Air Pollution Control Regulations and Standards, and the State Implementation Plan (“SIP”), as follows:

1. R.61-62.1, Definitions and General Requirements, Section II, Permit Requirements, to expand and improve consistency in language regarding general and registration permits.
2. The introductory paragraph to R.61-62.5, Standard No. 2, Ambient Air Quality Standards, to remove the sentence describing the test method for Gaseous Fluorides to improve the accuracy and clarity of the regulation’s text.
3. R.61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO<sub>x</sub>), to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.
4. R.61-62.5, Standard No. 7, Prevention of Significant Deterioration, to update applicability and exemptions, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.
5. R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to improve the overall clarity and structure of the regulation, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.
6. R.61-62.1, Definitions and General Requirements; R.61-62.5, Standard No. 7, Prevention of Significant Deterioration; R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR); and R.61-62.70 Title V Operating Permit Program, to update public participation procedures.
7. The Department also proposes other changes to R.61-62, Air Pollution Control Regulations and Standards, including definitional updates, clarification of certain permitting provisions, and other changes and additions deemed necessary, as well as corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-62 as necessary.

The Department does not anticipate an increase in costs to the state or its political subdivisions resulting from these proposed revisions. These changes streamline existing state requirements, ensure consistency with federal law, and improve the overall organizational structure and clarity of the Department’s regulations. South Carolina industries are already subject to national air quality standards as a matter of federal law. The proposed amendments will benefit the regulated community by maintaining state implementation of federal requirements, as opposed to federal implementation.

In accordance with S.C. Code Section 1-23-120(A) (Supp. 2017), these amendments require General Assembly review.

The Department had a Notice of Drafting published in the October 27, 2017, *State Register*.

## 16 PROPOSED REGULATIONS

### Section-by-Section Discussion of Proposed Amendments:

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

Amended codification and internal citations throughout to remove periods following numbers and/or letters, and replace them with parentheses enclosing updated alphanumeric characters for consistency with the 2014 South Carolina Legislative Council's Standards Manual.

Amended throughout to add the word "Part" or "Parts" to citations of parts in the Code of Federal Regulation citations for clarity and consistency.

Regulation 61-62.1, Section I, Definitions:

Paragraph (I)(26), Dioxins/Furans, is amended to strike "Code of Federal Regulations," as well as the parentheses around "CFR" and add the word "Part" to read "(40 CFR Part 60, Appendix A)" for clarity and consistency.

Regulation 61-62.1, Section I, Definitions:

Paragraph (I)(55), NAICS Code, is amended to add the numeral "(6)" after the word "six" to read "six (6)" to provide number denotation consistency throughout the text of the regulation.

Regulation 61-62.1, Section I, Definitions:

Paragraph (I)(71), Potential to Emit, is amended to add the phrase "or legally and practicably enforceable by the Administrator or the Department" for clarity and consistency with federal policy and court decisions.

Regulation 61-62.1, Section I, Definitions:

Paragraph (I)(97), Used Oil, (a) Spec. Oil (Specification Oil), is amended to strike "v. Nickel – 120 ppm maximum;" to be consistent with Department regulations and definitions for used oil.

Regulation 61-62.1, Section II, Permit Requirements:

Section (B), Exemptions from the Requirements to Obtain a Construction Permit, Paragraphs (B)(1)(b), (B)(1)(c), (B)(2)(a), and (B)(2)(b) are amended to strike "x 10<sup>6</sup>" and add the word "million" for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraphs (C)(1) and (C)(2) are amended to strike the word "and," insert a comma after the words "reviewed" and "signed," and add the words "and sealed," to read "reviewed, signed, and sealed" to reflect current professional practice guidelines and Department requirements.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(2)(c) is amended to strike "x 10<sup>6</sup>" and replace with the word "million" for clarity and consistency. The period at the end of the sentence is stricken and is replaced it with a semi-colon for consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(2)(d) is inserted to read "Package-type concrete batch plants that are designed to be hauled to a site, set up, and broken down quickly, with little to no additional equipment needed to manufacture product." This is to expressly include package-type concrete plants within the referenced exemption.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(3)(a) is amended to strike the phrase "and the name, mailing address, and telephone number of the owner or operator for the facility" and replace it with the phrase "(the name used to identify the facility at the location requesting the permit);" for clarity and consistency.



Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(3)(b) is amended strike the phrase “and the name, mailing address, and telephone number of the facility’s contact person” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(3)(c) is inserted to add the sentence “The name, mailing address, e-mail address and telephone number of the owner or operator for the facility;” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, Paragraph (C)(3)(d) is inserted to add the sentence “The name, mailing address, e-mail address and telephone number of the facility’s air permit contact person;” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (C), Construction Permit Applications, former Paragraphs (C)(3)(c) through (C)(3)(p) are recodified to (C)(3)(e) through (C)(3)(r) for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, Paragraph (D)(2) is amended to add the word “Any” at the beginning of the sentence, to strike the upper case “G” to lower case “g” to read “general,” and strike the letter “s” from the word “permits” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, Paragraph (D)(4) is amended to add the word “A” at the beginning of the sentence, and change “Sources” to “source” for clarity and consistency. Also amended to strike the word “a” before “source” in the latter part of the sentence and replace with “the” to read “the source” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, Paragraph (D)(5) is inserted to read “The Department also may grant coverage under the conditions and terms of a general construction permit to sources that have not requested coverage under a general construction permit, but which are determined to qualify for the general construction permit applicable to similar sources. Whether such a source will be permitted under an individual construction permit or under the general construction permit applicable to similar sources will be within the sole discretion of the Department.” This action is taken to reflect current work practices by Department staff and to clarify and streamline the application process.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, former Paragraph (D)(5) is recodified to (D)(6) and amended to strike the “s” after the word “source” and the phrase “request for” to read “The Department may grant a source authorization to operate under a general construction permit, but such a grant shall be a final permit action for purposes of judicial review” for appropriate punctuation, clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (D), General Construction Permits, former Paragraphs (D)(6) and (D)(7) are recodified to (D)(7) and (D)(8) respectively for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4) General Synthetic Minor Construction Permits, (E)(4)(b) is amended to strike “general permit” at the end of the sentence and replace it with “coverage under a general synthetic minor construction permit” for clarity and consistency.

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Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(c) is amended to add the phrase “synthetic minor construction” and to strike the word “the” in both instances of the second sentence and replace it with the word “a” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(d) amended to strike the phrase “the conditions and terms of the” and replace it with the phrase “coverage under a” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(e) is inserted to read “The Department also may grant coverage under the conditions and terms of a general synthetic minor construction permit to sources that have not requested coverage under a general synthetic minor construction permit, but which are determined to qualify for the general synthetic minor construction permit applicable to similar sources. Whether such a source will be permitted under an individual synthetic minor construction permit or under the general synthetic minor construction permit applicable to similar sources will be within the sole discretion of the Department.” This action is taken to clarify current work practices by the Department and to streamline the application process.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, former (E)(4)(e) is recodified to (E)(4)(f) and amended to replace “general permit” with “general synthetic minor construction permit” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, former (E)(4)(f) is recodified to (E)(4)(g) and amended to replace “general permit” with “general synthetic minor construction permit” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (E), Synthetic Minor Construction Permits, Paragraph (E)(4), General Synthetic Minor Construction Permits, (E)(4)(h) is inserted for consistency and to clarify a source’s ability to request an individual synthetic minor construction permit in lieu of coverage under a general synthetic minor construction permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (F), Operating Permits, Paragraph (F)(2) is inserted to add text to further explain compliance conditions for operating a source under the terms and conditions of a construction permit pending issuance of an operating permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (F), Operating Permits, former (F)(2) is recodified to (F)(3) and amended to clarify the paragraph’s applicability to sources issued construction permits that include engineering and/or construction specifications.

Regulation 61-62.1, Section II, Permit Requirements:

Section (F), Operating Permits, former Paragraph (F)(3), Request for a New or Revised Operating Permit is recodified to (F)(4) for consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (F), Operating Permits, Paragraph (F)(5), General Operating Permits (including (F)(5)(a) through (F)(5)(g)) is inserted to establish conditions for Department development and issuance of general operating permits to reflect current Department practices and streamline permit issuance.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(2), General Provisions, former (G)(2)(d) is stricken to improve clarity and avoid duplication.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(2), General Provisions, former (G)(2)(e) and (G)(2)(f) are amended to re-codify to (G)(2)(d) and (G)(2)(e), respectively for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, (G)(7)(d) is inserted to read “The Department also may grant coverage under the conditions and terms of a general conditional major operating permit to sources that have not requested coverage under a general conditional major operating permit, but which are determined to qualify for the general conditional major operating permit applicable to similar sources. Whether such a source will be permitted under an individual conditional major operating permit or under the general conditional major operating permit applicable to similar sources will be within the sole discretion of the Department.” This action is taken to reflect current work practices by Department staff and to clarify and streamline the permit process.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, former (G)(7)(d) is recodified to (G)(7)(e) and amended to strike the phrase “the conditions and terms of” and replace it with the phrase “coverage under” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, former (G)(7)(e) is recodified to (G)(7)(f), and amended to strike the “s” after word “source” and to strike the phrase “request for” and add the phrase “conditional major operating” to read “The Department may grant a source authorization to operate under a general conditional major operating permit without further public notice, but such a grant shall be a final permit action for purposes of judicial review.” for appropriate punctuation, clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, former (G)(7)(f) is recodified to (G)(7)(g) and amended to replace “general permit” with “general conditional major operating permit” for clarity and internal consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (G), Conditional Major Operating Permits, Paragraph (G)(7), General Conditional Major Operating Permits, (G)(7)(h) is inserted for consistency and to clarify a source’s ability to request an individual conditional major operating permit in lieu of coverage under a general conditional major operating permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(1) is inserted to add language to improve clarity and reflect current Department practices regarding renewal of operating permits.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, former Paragraphs (H)(1) through (H)(4) are recodified to (H)(2) through (H)(5) respectively for consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(5)(a) is amended to strike the phrase “and the name, mailing address, and telephone number of the owner or operator for the facility” and replace it with the phrase “(the name used to identify the facility at the location requesting the permit)” for clarity and consistency.

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Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(5)(b) is amended to strike the phrase “and the name, mailing address, and telephone number of the facility’s contact person” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(5)(c) is inserted to add the language “The name, mailing address, e-mail address and telephone number of the owner or operator for the facility;” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, Paragraph (H)(5)(d) is inserted to add the language “The name, mailing address, e-mail address and telephone number of the facility’s air permit contact person;” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (H), Operating Permit Renewal Requests, former Paragraphs (H)(5)(c) through (H)(5)(j) are recodified to (H)(5)(e) through (H)(5)(l) for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(1), Development of Registration Permits, (I)(1)(a) is amended to add the phrase “and issue a” and strike the letter “s” from permits so that the first sentence reads: “The Department may develop and issue a registration permit applicable to similar sources.” for punctuation, clarity and consistency. The remainder of (I)(1)(a) is recodified as (I)(1)(b) and amended to read “Any registration permit developed shall incorporate all requirements applicable to the construction and operation of similar sources and shall identify criteria by which sources may qualify for coverage under a registration permit.” for clarity and consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(1), Development of Registration Permits, former (I)(1)(b) is recodified to (I)(1)(c) for internal consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, (I)(2)(a) is amended so that the first sentence reads “Sources may submit a permit application to the Department with a request for coverage under the conditions and terms of a registration permit for similar sources in lieu of a construction and operating permit as provided in Section II(A) and (F) above.” to clarify conditions and terms for applying for coverage under a registration permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, (I)(2)(b) is inserted to read “The Department also may grant coverage under the conditions and terms of a registration permit to sources that have not requested coverage under a registration permit, but which are determined to qualify for the registration permit applicable to similar sources. Whether such a source will be permitted under an individual permit or under the registration permit applicable to similar sources will be within the sole discretion of the Department.” This action is to clarify and streamline the permit process.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, former (I)(2)(b) is recodified to (I)(2)(c), and the first sentence is amended to strike the phrase “the conditions and terms of” and replace it with “coverage under” for clarity and consistency. The remainder of this subparagraph is recodified as (I)(2)(d) for clarity.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, former (I)(2)(c) is recodified to (I)(2)(e) and amended to strike “s request for” to read “The Department may grant a source authorization to operate under a registration permit, but such a grant shall be a final permit action for purposes of judicial review language.” to improve clarity and internal consistency.

Regulation 61-62.1, Section II, Permit Requirements:

Section (I), Registration Permits, Paragraph (I)(2), Application for Coverage Under a Registration Permit, (I)(2)(f) is inserted to read “A source that qualifies for coverage under a Department issued registration permit may submit a permit application to the Department and request an individual permit in lieu of coverage under a general registration permit.” to specify that a source may request an individual permit.

Regulation 61-62.1, Section II, Permit Requirements:

Section (J), Permit Conditions, Paragraph (J)(2), Special Permit Conditions, (J)(2)(b) is amended to add a hyphen between the words “short” and “term” to read “short-term” for appropriate punctuation.

Regulation 61-62.1, Section II, Permit Requirements:

Section (N), Public Participation Procedures, Paragraph (N)(1) is amended to replace “posting to the Department’s website” with “posting to a public website identified by the Department” for consistency with federal regulations, and amended to clarify the Department’s authority to use additional means of public notice, including but not limited to public meetings.

Regulation 61-62.1, Section IV, Source Tests:

Section (B), Submission and Approval of a Site-Specific Test Plan, Paragraph (B)(5)(a) is amended to add the phrase “or as otherwise specified by a relevant federal or state requirement” to read “The owner, operator, or representative shall submit site-specific test plans or a letter which amends a previously approved test plan at least forty-five (45) days prior to the proposed test date or as otherwise specified by a relevant federal or state requirement.” to cite appropriate federal or state requirements for amending an approved test plan to reflect current Department practice.

Regulation 61-62.1, Section IV, Source Tests:

Section (C), Requirements for a Site-Specific Test Plan, is amended to strike the parentheses around the internal citations and reflect the recodification of “IV.C.1” and “C.8” to “IV(C)(1)” and “(C)(8)” for consistency.

Regulation 61-62.1, Section IV, Source Tests:

Section (C), Requirements for a Site-Specific Test Plan, Paragraph (C)(3), Process Descriptions, (C)(3)(b) is amended to read “Process design rates, normal operating rates, and operating rates specified by applicable regulation” to clarify the appropriate rate requirement.

Regulation 61-62.1, Section IV, Source Tests:

Section (D), Notification and Conduct of Source Tests, Paragraph (D)(1) is amended to add the phrase “or as otherwise specified by a relevant federal or state requirement” to read “Prior to conducting a source test subject to this section, the owner, operator, or representative shall ensure that a complete written notification is submitted to the Department at least two (2) weeks prior to the test date or as otherwise specified by a relevant federal or state requirement.” to clarify the appropriate written notification period prior to conducting a source test subject to this section for clarity and internal consistency.

Regulation 61-62.1, Section IV, Source Tests:

Section (D), Notification and Conduct of Source Tests, Paragraph (D)(5) is amended to add the phrase “or as otherwise specified by a relevant federal or state requirement” to read “Unless approved otherwise by the Department, the owner, operator, or representative shall ensure that source tests are conducted while the source is operating at the maximum expected production rate or other production rate or operating parameter which would result in the highest emissions for the pollutants being tested or as otherwise specified in a relevant federal or state requirement.” to clarify the appropriate production rate or operating parameter to be used while conducting a source test for clarity and internal consistency.

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Regulation 61-62.1, Section IV, Source Tests:

Section (F), Final Source Test Report, Paragraph (F)(1) is amended to strike the word “standard” and replace it with “requirement” for clarity and consistency.

### **Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards**

Regulation 61-62.5, Standard No. 2, Ambient Air Quality Standards:

First paragraph is amended to add the word “Part” to citations of parts in the Code of Federal Regulations citations for clarity and consistency. The last sentence is stricken as obsolete because the pollutant “Gaseous Fluorides (as HF)” and all associated parameters are no longer a part of this regulation.

### **Regulation 61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO<sub>x</sub>)**

Amended codification and internal citations throughout to replace periods following numbers and/or letters with parentheses enclosing updated alphanumeric characters for consistency with the 2014 South Carolina Legislative Council’s Standards Manual.

Amended throughout to add the word “Part” or “Parts” to citations of parts in the Code of Federal Regulation citations for clarity and consistency.

Regulation 61-62.5, Standard No. 5.2, Section I, Applicability:

Section (B), Exemptions, Paragraphs (B)(1) and (B)(2) are stricken and replaced with language to ensure consistency and clarify those sources that are exempt from the requirements of this regulation, including boilers of less than 10 million British thermal unit per hour (BTU/hr) rated input. Paragraph (B)(3) is added to exempt sources with an uncontrolled potential to emit of less than five tons per year of NO<sub>x</sub>. Former (B)(3) through (B)(16) are recodified to (B)(4) through (B)(17) for consistency.

Regulation 61-62.5, Standard No. 5.2, Section I, Applicability:

Section (B), Exemptions, Paragraph (B)(7) is amended to strike the number “6” and replace with “7” to reflect Regulation 61-62.96, CAIR NO<sub>x</sub> Annual Trading Program is no longer in effect, and is replaced with Regulation 61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program.

Regulation 61-62.5, Standard No. 5.2, Section I, Applicability:

Section (B), Exemptions, Paragraph (B)(15) is amended to change alphanumeric codification after “Section” from “(1)” to “I” for consistency.

Regulation 61-62.5, Standard No. 5.2, Section II, Definitions:

Section (G) is amended to add a comma after “June 25, 2004” to correct punctuation and for consistency and to change alphanumeric codification after “Section” from “(1)” to “I” for consistency.

Regulation 61-62.5, Standard No. 5.2, Section II, Definitions:

Section (I) is amended to add a comma after “June 25, 2004” to correct punctuation and for consistency and to strike the parentheses enclosing “I” to correct codification for consistency.

Regulation 61-62.5, Standard No. 5.2, Section II, Definitions:

Section (J) is inserted to define the term non-routine maintenance for clarification.

Regulation 61-62.5, Standard No. 5.2, Section II, Definitions:

Former Section (J), Source, is recodified as (K) and amended to strike the phrase “an individual NO<sub>x</sub> emission unit” and replace it with the phrase “a stationary NO<sub>x</sub> emission unit, comprised of one or more burners” to clarify the definition.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources: Table 1- NO<sub>x</sub> Control Standards, Subsection “Propane and/or Natural Gas-Fired Boilers”, first column, is amended to delete an extra space between the open parenthesis and MMBtu/hr to read “(MMBtu/hr).”

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources: Table 1- NO<sub>x</sub> Control Standards, Subsection “Propane and/or Natural Gas-Fired Boilers”, second column, is amended to strike the word "metric". The use of the word "metric" is inaccurate for (MMBTU), which is meant to represent a thousand thousand BTUs, equivalent to one million BTUs.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources: Table 1- NO<sub>x</sub> Control Standards, Subsection “Multiple Fuel Boilers”, first block, second column/ninth line, is amended to add the phrase “and/or propane,” to the end of “...from combustion of natural gas,” to clarify fuel types covered under the emission limit.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources: Table 1- NO<sub>x</sub> Control Standards, Subsection “Multiple Fuel Boilers”, second block, second column/ninth line, is amended to add the phrase “and/or propane,” to the end of “...from combustion of natural gas,” to clarify fuel types covered under the emission limit.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources: Table 1- NO<sub>x</sub> Control Standards, Subsection “Fluidized Bed Combustion (FBC) Boiler” title is amended to center it in the table for internal consistency.

Regulation 61-62.5, Standard No. 5.2, Section III, Standard Requirements For New Affected Sources: Table 1- NO<sub>x</sub> Control Standards, Subsection “Other” title is amended to center it in the table for internal consistency. Subsection “Other,” first block, second column/first line, is amended to strike the word “Forth” and replace it with the word “Fourth” to correct spelling.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources: Section (A), Boilers, Paragraph (A)(1), CEMS, (A)(1)(d)(i)(B) is amended to delete the phrase “startups, shutdowns, and” to correct requirements related to record maintenance.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources: Section (A), Boilers, Paragraph (A)(4), Tune-ups, is amended to add the second sentence “If the owner or operator of a boiler is not subject to the federal tune-up requirements (40 CFR Part 63), then the following requirements are applicable:” to clarify tune-up instructions for sources not subject to the Boiler MACT.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources: Section (A), Boilers, Paragraph (A)(4), Tune-ups, is amended to insert “(a) The first tune-up shall be conducted no more than twenty-four (24) months from start-up of operation for new affected sources.” to clarify the timeframe for tune-up to occur.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources: Section (A), Boilers, Paragraph (A)(4), Tune-ups, former (A)(4)(a) is recodified to (A)(4)(b), and amended to strike the letter “s” from “owners” to read “owner” to correct punctuation and for consistency.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources: Section (A), Boilers, Paragraph (A)(4), Tune-ups, former (A)(4)(b) and (A)(4)(c) are recodified to (A)(4)(c) and (A)(4)(d), respectively for consistency.

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Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (A), Boilers, Paragraph (A)(5), Other Requirements, is amended to delete the phrase “startup, shutdown, or” to correct requirements related to record maintenance.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (B), Internal Combustion Engines, Paragraph (B)(3), Tune-ups, is amended to add a second sentence: “If the owner or operator of an internal combustion engine is not subject to the federal tune-up requirements (40 CFR Part 63), then the following requirements are applicable.” to clarify tune-up instructions for sources not subject to the Boiler MACT.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (B), Internal Combustion Engines, Paragraph (B)(5), Other Requirements, is amended to delete the phrase “startup, shutdown, or” to correct requirements related to record maintenance.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (C), Turbines, Paragraph (C)(3), Periodic Monitoring and/or Source Test, (C)(3)(d), is amended to add a comma after “twenty-four (24) months” to correct punctuation and for internal consistency.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (C), Turbines, Paragraph (C)(6), Other Requirements, is amended to delete the phrase “startup, shutdown, or” to correct requirements related to record maintenance.

Regulation 61-62.5, Standard No. 5.2, Section IV, Monitoring, Record Keeping, and Reporting Requirements for New Affected Sources:

Section (D), All Other Affected Source Types, is amended to add section (D)(4) “Other Requirements” and the text “The owner or operator shall maintain records of the occurrence and duration of any malfunction in the operation of an affected source; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.” to describe record keeping requirements for an affected source during these conditions.

Regulation 61-62.5, Standard No. 5.2, Section VII, Tune-up Requirements For Existing Sources:

Section (A) is amended to strike language addressing the deadline for the first tune-up for new affected sources to avoid duplication and to correct for text error.

### **Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration**

Amended codification and internal citations throughout to update alphanumeric characters for consistency with the 2014 South Carolina Legislative Council’s Standards Manual.

Amended throughout to strike the abbreviation “(tpy)” and replace it with the phrase “tons per year” for clarity and consistency.

Amended throughout to add the word “Part” or “Parts” to citations of parts in the Code of Federal Regulation citations for clarity and consistency.

Amended throughout to write out the numbers such as “twenty-four” and place parentheses around the numerals for the phrases to provide number denotation consistency throughout the text of the regulation.



Amended throughout to strike the word “paragraph” and replace with “Section” when citing sections for clarity and consistency.

Regulation 61-62.5, Standard No. 7, Section (A)(2), Applicability procedures:

Former (a)(2)(iv)(a) is recodified (A)(2)(d)(i), and amended to strike the phrase “paragraphs (a)(2)(v) and (vi)” and replace with the phrase “paragraph (A)(2)(e)” to reflect recodification and remove second nonexistent citation.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Section (B), Definitions, is amended to remove quotation marks from each defined term for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(5)(ii)(b) is recodified (B)(5)(b)(ii), and amended to strike the period at the end of the paragraph, and add the phrase “and would be constructed in the same state as the state proposing the redesignation” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(9) is recodified (B)(9)(a), and is amended to strike the numbers “003-005-00176-0” and replace with “003-005-00716-0” to correct a typographical error.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Paragraph (B)(9)(b) is added for consistency with changes to the federal definition of “Building, structure, facility or installation.”

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(10), (b)(30)(ii), and (b)(32)(ii) are recodified (B)(10), (B)(30)(b), and (B)(32)(b), and are amended to strike the phrase “oxides of” and add the word “oxides” to read “nitrogen oxides” for clarity and consistency.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former Paragraphs (b)(30)(iii)(e) and (b)(30)(iii)(f) are recodified (B)(30)(c)(v) and (B)(30)(c)(vi), and are amended to strike the lowercase “subpart” and replace with capitalized “Subpart” and add the phrase “Part 51,” to read “40 CFR Part 51, Subpart I” to properly cite the federal regulation.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(30)(v) is recodified (B)(30)(e), and amended to strike all language except the codification, and add “[Reserved]” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(32)(i)(a) is recodified (B)(32)(a)(i), and amended to add the phrase “(with thermal dryers)” to the reference to primary aluminum ore reduction plants to read “primary aluminum ore reduction plants (with thermal dryers),” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(34)(iii) is recodified (B)(34)(c), and amended to strike subparagraphs formerly codified (b), (c) and (d) in their entirety, and amended to add “[Reserved]” to the newly codified paragraph “(B)(34)(c)(ii)” to clarify the criteria for creditable emissions in the regulation’s definition of net emissions increase.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(36) is recodified (B)(36), and amended to strike the phrase “[Reserved]” and add the definition for pollution prevention, for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

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Former (b)(37) is recodified (B)(37) and amended to add the phrase “or legally and practicably enforceable by the Administrator or the Department” for clarity and consistency with federal policy and court decisions.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(44)(i)(b) is recodified (B)(44)(a)(ii), and amended to strike the former citation to “(i)(b)” and add the word “this” to read “identified under this paragraph” for clarity.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(45) is recodified (B)(45), and amended to strike the word “credible” and replace with the word “creditable” to correct a typographical error.

Regulation 61-62.5, Standard No. 7, Section (B), Definitions:

Former (b)(49)(i) is recodified (B)(49)(a), and amended to strike the non-codified list titled “Pollutant and Emissions Rate” and replace the list with a table format for ease of use.

Regulation 61-62.5, Standard No. 7, Section (C), Ambient air increments:

Amended to codify previously uncoded text as Paragraphs (C)(1) and (C)(2) for correct codification.

Regulation 61-62.5, Standard No. 7, Section (G), Redesignations:

Former (g)(4) is recodified (G)(4), and amended to strike the first colon and capitalized phrase “Provided, That” and replace with a comma and the lowercase phrase “provided that” to ensure internal consistency.

Regulation 61-62.5, Standard No. 7, Section (I), Exemptions:

Former (i)(2) is recodified (I)(2), and amended to replace “section” with “Section” for internal consistency.

Regulation 61-62.5, Standard No. 7, Section (I), Exemptions:

Former (i)(5)(i) is recodified (I)(5)(a), and amended to strike the non-codified list following the phrase “less than the following amounts” and replace the list with a table format for ease of use.

Regulation 61-62.5, Standard No. 7, Section (I), Exemptions:

Revised to add language in alphanumeric order at paragraph (I)(11) and subparagraphs (a) through (b), to clarify sources that are exempt from Section (K) of this regulation, to ensure consistency with the federal requirements.

Regulation 61-62.5, Standard No. 7, Section (P):

Retitled “Sources impacting Federal Class I areas – additional requirements.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (P):

Former (p)(5) is recodified (P)(5), and amended to strike the first colon and capitalized phrase “Provided, That” and replace with a comma and the lowercase phrase “provided that” to ensure internal consistency.

Regulation 61-62.5, Standard No. 7, Section (P):

Former (p)(6) is recodified (P)(6), and amended to strike the colon and the capitalized word “Provided”, and replace them with the lowercase word “provided” to ensure internal consistency.

Regulation 61-62.5, Standard No. 7, Section (P):

Former (p)(7) is recodified (P)(7), and amended to strike the colon and the capitalized word “Provided”, and replace them with the lowercase word “provided” to ensure internal consistency.

Regulation 61-62.5, Standard No. 7, Section (Q), Public participation:

Former (q)(2)(iii) is recodified (Q)(2)(c), and amended to define the consistent noticing method for draft permits subject to this regulation, to read “Notify the public, by posting the notice, for the duration of the public comment period, on a public website identified by the Department. This consistent noticing method shall be used for all draft permits subject to notice under this section. The public website notice shall include a notice of public

comment including notice of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The public website notice shall also include the draft permit, information on how to access the administrative record for the draft permit and how to request and/or attend a public hearing on the draft permit. The Department may use additional means to provide adequate notice to the affected public, including by publishing the notice in a newspaper of general circulation in each region in which the proposed source or modification would be constructed (or in a state publication designed to give general public notice).”

Regulation 61-62.5, Standard No. 7, Section (R), Source obligation:

Former (r)(6) is recodified (R)(6), and amended to strike the word “to” in the first sentence and replace it with the phrase “with respect to any regulated NSR pollutant emitted from” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (R), Source obligation:

Paragraphs (R)(6)(c) and (R)(6)(g) are inserted in alpha-numeric order to ensure consistency with the federal requirements, and former subparagraphs (r)(6)(i), (r)(6)(ii), and (r)(6)(iii) through (r)(6)(v) are recodified as (R)(6)(a), (R)(6)(b), and (R)(6)(d) through (R)(6)(f), for internal consistency.

Regulation 61-62.5, Standard No. 7, Section (AA), Actuals PALs:

Former (aa)(1)(ii)(b) is recodified (AA)(1)(b)(ii), and amended to add the phrase “the change” to the second sentence to read “However, the change will be reviewed” for clarity and grammatical correctness, and amended to correct the internal reference in the second sentence to read “Regulation 61-62.1 Section II, Permit Requirements” for clarity and consistency.

Regulation 61-62.5, Standard No. 7, Section (AA), Actuals PALs:

Former (aa)(2), Definitions, is recodified (AA)(2), and amended to remove quotation marks from each definition for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.5, Standard No. 7, Section (AA), Actuals PALs:

Former (aa)(5) is recodified (AA)(5), and amended to change “section” to “Section” and add “This includes the requirement that the Department provide the public with notice of the proposed approval of a PAL permit and at least a thirty (30)-day period for submittal of public comment.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7, Section (AA), Actuals PALs:

Former (aa)(14), (aa)(14)(i)(g), and (aa)(14)(ii)(d) are recodified (AA)(14), (AA)(14)(a)(vii), and (AA)(14)(b)(iv), and amended to strike the phrase “the applicable title V operating permit program” and replace with the phrase “Regulation 61-62.70” for clarity.

**Regulation 61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR)**

Amended codification and internal citations throughout to update alphanumeric characters for consistency with the 2014 South Carolina Legislative Council’s Standards Manual, and to reflect repositioning of various provisions for improved organization and clarity.

Amended throughout to strike the word “paragraph” and replace with “Section” when citing sections for clarity and consistency.

Amended throughout to strike the phrase “oxides of nitrogen” and add the phrase “nitrogen oxides” for clarity and consistency.

Amended throughout to strike the abbreviation “(tpy)” and replace it with the phrase “tons per year” for clarity and consistency.

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Amended throughout to add the word “Part” or “Parts” to citations of parts in the Code of Federal Regulation citations for clarity and consistency.

Amended throughout to write out the numbers such as “twenty-four” and place parentheses around the numerals to provide number denotation consistency throughout the text of the regulation.

Regulation 61-62.5, Standard No. 7.1, Section (A), Applicability:

Former Section (a) is recodified Section (A), and amended to include former paragraphs (b)(1) through (b)(7) recodified as paragraphs (A)(4) through (A)(9) in alphanumeric order, and strike the section title “(b) Applicability procedures.” Section (A) is also amended to add the language formerly codified at Section (e), “Exemptions”, to the newly codified paragraph (A)(10) and subparagraphs (A)(10)(a) through (A)(10)(aa). These revisions are to ensure clarity, improved organization, and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (A), Applicability:

Former (b)(1) is recodified (A)(4), and amended to strike the word “contained” and replace it with “as defined” for consistency throughout the regulation, and amended to strike the citation “(15)” and replace it with the citation “(B)(37)” to correct a typographical error with the citation of the definition of “Significant.”

Regulation 61-62.5, Standard No. 7.1, Section (A), Applicability:

Former (b)(4) is recodified (A)(7), and amended to strike the phrase “(b)(37) of Regulation 61-62.5 Standard 7, “Prevention of Significant Deterioration” (“Standard 7”)” and replace it with the citation “(B)(27)” to properly cite the definition within the regulation.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Section (c) is recodified Section (B), and amended to revise codification and citations in alphanumeric order and to remove quotation marks from each defined term for consistency with other regulations throughout Regulation 61-62.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B) (former Paragraph (c)) is amended to strike all text after the title and replace with the phrase “For the purposes of this regulation:” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraphs (B)(2), (B)(4), and (B)(6) though (B)(19) are inserted in alpha-numeric order to add definitions for: “Allowable emissions”, “Begin actual construction”, “Building, structure, facility or installation”, “Temporary clean coal technology demonstration project”, “Clean coal technology”, “Clean coal technology demonstration project”, “Commence”, “Construction”, “Continuous emissions monitoring system (CEMS)”, “Continuous emissions rate monitoring system (CERMS)”, “Continuous parameter monitoring system (CPMS)”, “Electric utility steam generating unit”, “Emissions unit”, “Federal Land Manager”, “Federally enforceable”, and “Fugitive emissions”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(2) and (c)(3) are recodified as (B)(3) and (B)(5) respectively to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(4) and the word “[Reserved]” are stricken to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(5) through (c)(7) are recodified as (B)(20) through (B)(22) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(5)(B) is recodified (B)(20)(b), and amended to strike the word “permit” and add the word “allow” to ensure clarity, and amended in two instances to change the word “emissions” to “emission” to ensure consistency with federal regulations, and amended to replace “a stationary source” with “the stationary source” to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(21)(c)(ii) is amended to replace “sections” with “Sections” for internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(21)(c)(iii) is amended to replace “section” with “under Section” for clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(6)(C)(v)(a) and (c)(6)(C)(vi) are recodified (B)(21)(c)(v)(1) and (B)(21)(c)(vi), and amended to add the phrase “pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, Subpart I or 40 CFR 51.166” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(21)(e) is added and reserved to reflect the stay of corresponding federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(7)(A) is recodified (B)(22)(a), and amended to strike the phrase “paragraphs (c)(7)(A)(i)(a) through (e) of this section.” and replace it with “the following table:”. Paragraph (B)(22)(a) is also amended to strike subparagraphs formerly codified (c)(7)(A)(a) through (c)(7)(A)(d) and replace the codified list with an expanded table format for increased comprehensiveness and ease of use. Paragraph (B)(22)(a) is also amended to replace “which” with “that” for correct grammar, and to replace “Act” with “Clean Air Act” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(22)(c)(xxvii) is amended to replace “section” with “Section” for internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(23) is inserted in alpha-numeric order to add the definition for “Necessary preconstruction approvals or permits”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(8) and (c)(9) are recodified as Paragraphs (B)(24) and (B)(25) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(8)(B) is recodified (B)(24)(b), and amended to strike the phrase “before the date that the increase from the particular change occurs;” and add the word “between:”, and amended to add subparagraphs (i) through (ii) to clarify the timeframe for contemporaneous increases or decreases in actual emissions in the regulation’s definition of net emissions increase.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(8)(C) is recodified (B)(24)(c) and amended to strike former subparagraph (c)(8)(C)(i), and amended to recodify former (c)(8)(C)(ii) as (B)(24)(c)(i), and amended to add “[Reserved]” to the newly codified subparagraph “(B)(24)(c)(ii)” to clarify the criteria for creditable emissions in the regulation’s definition of net emissions increase.

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Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(8)(D) is recodified (B)(24)(d), and amended to strike the period and replace with semicolon for consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(8)(E)(i) is recodified (B)(24)(e)(i), and amended to add an “s” to “emission” to read “actual emissions” and amended to add a comma to read “allowable emissions,” for clarity and consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(8)(E)(ii) is recodified (B)(24)(e)(ii), and amended to strike the word “and” after the semicolon for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(8)(E)(iii) is recodified (B)(24)(e)(iii), and amended to add the phrase “under regulations approved pursuant to 40 CFR Part 51, Subpart I” for consistency with federal regulation, and to add the word “and” after the semicolon for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(8)(F) is recodified (B)(24)(f), and amended to strike the period at the end of the second sentence and replace with a semicolon for correct codification and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(9) is recodified (B)(25), and amended to strike the lowercase word “appendix” and replace with “Appendix” for consistency.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(10) and the word “[Reserved]” are stricken to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraphs (B)(26) through (B)(30) are inserted in alphanumeric order to add definitions for: “Pollution prevention”, “Potential to emit”, “Predictive emissions monitoring system (PEMS)”, “Prevention of Significant Deterioration (PSD) permit”, and “Project”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(11) is recodified as (B)(31) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(11)(B)(iv) is recodified (B)(31)(b)(iv), and amended to strike the phrase “under paragraph (b)(37) of Standard 7” and add the phrase “in paragraph (B)(27) of this section” to properly cite the referenced definition within the regulation.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(12) is stricken in entirety to reflect the provision’s recodification at (B)(29).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(13) is recodified as (B)(32) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(13)(C) is recodified (B)(32)(c), and amended to add the phrase “identified under this paragraph as” for consistency with federal regulations, and amended to strike the word “a” in “a constituent” and replace with the word “such” for clarity and consistency with federal regulations, and amended to strike former subparagraphs (c)(13)(C)(c) and (c)(13)(C)(d) for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(13)(C)(b) is recodified (B)(32)(c)(ii), and amended to strike the phrase “is a precursor” and add a comma and the phrase “volatile organic compounds, nitrogen oxides, and ammonia are precursors” for consistency with federal regulations, and amended to strike the word “all” and replace with “any” and strike the “s” in “areas” for consistency with federal regulations, and amended to strike the semicolon at the end of the paragraph and replace with a period for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(13)(D) is recodified (B)(32)(d), and amended to add the phrase “nonattainment major NSR” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraphs (B)(33) through (B)(36) are inserted in alphanumeric order to add definitions for: “Replacement unit”, “Resource recovery facility”, “Reviewing authority”, and “Secondary emissions”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraphs (c)(14) and (c)(15) are recodified as (B)(37) and (B)(38) respectively to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former (c)(14) is recodified (B)(37), and amended to strike the word “as” and replace with the word “a” for consistency with federal regulations, and amended to strike the non-codified list titled “Pollutant Emission Rate” and replace the list with an expanded table format for comprehensiveness and ease of use.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Paragraph (B)(39) is inserted in alphanumeric order to add a definition for: “Stationary source”, to ensure consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (B), Definitions:

Former Paragraph (c)(16) is recodified as (B)(40) to reflect codification and formatting changes to Section (B).

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Former Section (d) is recodified Section (C), and amended to revise codification and citations in alphanumeric order to ensure clarity and internal consistency. Former Paragraph (d) is stricken to reflect codification and formatting changes to Section (C).

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Former (d)(1) is recodified (C)(1), and amended to strike the phrase “Conditions for approval” and replace it with “Permitting requirements.” Former Subparagraph (d)(1)(A) is recodified (C)(1)(a), and amended to identify the meaning of the acronym “LAER.” Former Subparagraph (d)(1)(C) is recodified (C)(1)(c), and amended to strike the phrase “following provisions” and add the phrase “requirements in Section (D), Offset standards” to codify offset standard language into a separate section for clarity and usability. Former Subparagraphs (d)(1)(D)

and (d)(1)(E) are recodified (C)(1)(d) and (C)(1)(e) and repositioned to follow in alphanumeric order after subparagraphs (C)(1)(a) through (C)(1)(c) for clarity and usability.

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

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Paragraph (C)(2) is added to read “Exemptions. Temporary emission sources, such as pilot plants and portable facilities which will be relocated outside of the nonattainment area after a short period of time, are exempt from the requirements of paragraphs (C)(1)(c) and (C)(1)(d) of this section.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Paragraph (C)(3) is added to read “Secondary emissions. Secondary emissions need not be considered in determining whether the stationary source or modification is major. However, if a source is subject to this regulation on the basis of the direct emissions from the source, the applicable conditions in paragraph (C)(1) must also be met for secondary emissions. However, secondary emissions may be exempt from paragraphs (C)(1)(a) and (C)(1)(b) of this section.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (C), Permitting requirements:

Paragraph (C)(4) is added to read “The requirements of this regulation applicable to major stationary sources and major modifications of PM<sub>10</sub> shall also apply to major stationary sources and major modifications of PM<sub>10</sub> precursors, except where the Administrator determines that such sources do not contribute significantly to PM<sub>10</sub> levels that exceed the PM<sub>10</sub> ambient standards in the area.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Section (D) is added, and titled “Offset standards.” to incorporate language formerly codified (d)(1)(C)(i) thorough (d)(1)(C)(v)(a)(4)(A)(vii) and (d)(1)(C)(viii) and (d)(1)(C)(xi) into a separate section for clarity and usability. Revised codification and citations in alphanumeric order to ensure clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Paragraph (D)(1) is added to read “All emission reductions claimed as offset credit shall be permanent, quantifiable, federally enforceable and surplus;” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former (d)(1)(C)(i) is recodified (D)(2), and amended to add the phrase “(as when a state has a single particulate emission limit for all fuels)” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former (d)(1)(C)(ii) is recodified (D)(3), and amended to add an “s” to “emission” to read “emissions offset credit” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former (d)(1)(C)(iii)(a) is recodified (D)(4), and amended to strike the phrase “if such reductions are permanent, quantifiable, federally enforceable, occurred on or after the date of the most recent emissions inventory, and if the area has an EPA-approved attainment plan” and add “for offsets if the shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this paragraph, the Department may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. No credit may be given for shutdowns that occurred before August 7, 1977.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former (d)(1)(C)(iii)(b) is recodified (D)(5), and amended to strike the phrase “Such reductions may be credited if” and replace it with the phrase “Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements on paragraph (D)(4) may be

generally credited only if:” for consistency with federal regulations. The remainder of the paragraph is amended to divide the paragraph into subparagraphs (D)(5)(a) and (D)(5)(b) for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:



Paragraph (D)(5)(a) is amended to strike the word “the” and replace with the word “The” at the beginning of the newly codified paragraph, and amended to strike the comma and replace with a semicolon to read “The shutdown or curtailment occurred on or after the date the new source permit application is filed; or,” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Paragraph (D)(5)(b) is amended to strike the phrase “if the” and replace with the word “The” at the beginning of the newly codified paragraph, and amended to strike the phrase “cutoff date provision of paragraph (d)(C)(iii)(a) are observed” and replace with the phrase “emission reductions achieved by the shutdown or curtailment met the requirements of paragraph (D)(4)” to read “The applicant can establish that the proposed new source is a replacement for the shutdown or curtailed source, and the emission reductions achieved by the shutdown or curtailment met the requirements of paragraph (D)(4).” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(iv) is recodified (D)(6). Former Paragraph (d)(1)(C)(v) is stricken to reflect recodification at (D)(1). Former Paragraphs (d)(1)(C)(viii) and (d)(1)(C)(xi) are recodified (D)(7) and (D)(8) respectively and repositioned in alphanumeric order.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Paragraph (D)(9) is added to read “If a designated nonattainment area is projected to be an attainment area as part of an approved SIP control strategy by the new source start-up date, offsets would not be required if the new source would not cause a new violation.” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(v)(a) is recodified (D)(10), and amended to strike the phrase “Eligibility as Emission Offsets.” for clarity, and amended to strike former subparagraphs (d)(1)(C)(v)(a)(1) and (d)(1)(C)(v)(a)(1)(A). Former subparagraph (d)(1)(C)(v)(a)(1)(B) is recodified (D)(11) for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(v)(a)(2) is recodified (D)(12), and amended to strike subparagraphs (d)(1)(C)(v)(a)(2)(D) through (d)(1)(C)(v)(a)(2)(F) for clarity, and amended to recodify subparagraphs (A), (B), (C), and (G) in alphanumeric order as (D)(12)(a) through (D)(12)(d) for consistency in codification. Paragraph (D)(12) is amended to correct grammar and add the missing word “of”. Paragraph (D)(12)(c) is amended to add “or” for clarity. Paragraph (D)(12)(d) is amended to add the word “federally” to read “real, permanent, quantifiable, federally enforceable, and surplus” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(v)(a)(3) is recodified as (D)(13).

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Paragraph (d)(1)(C)(v)(a)(4) is recodified (D)(14), and amended to add the phrase “emission reductions that are not considered surplus” from former subparagraph (d)(1)(C)(v)(a)(4)(A), and strike former subparagraph (d)(1)(C)(v)(a)(4)(A) for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Former Subparagraphs (d)(1)(C)(v)(a)(4)(A)(i) through (d)(1)(C)(v)(a)(4)(A)(vii) are recodified (D)(14)(a) through (D)(14)(g) for correct codification.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

Paragraphs (D)(14)(b) and (D)(14)(c) are amended for improved punctuation. Paragraph (D)(14)(c) is amended to strike the duplicate word “VOCs” to correct a typographical error, and amended to strike “CAA” and replace it with “Clean Air Act” to ensure clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (D), Offset standards:

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Paragraphs (D)(14)(d), (D)(14)(e), and (D)(14)(g) are amended to add “Emission reductions from” to the beginning of each paragraph, for clarity and consistency. Paragraph (D)(14)(g) is amended to strike “notifying” and replace with “with notification” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (E), Calculation of Emission Offsets:  
Former Paragraph (d)(1)(C)(v)(b) is recodified Section (E) to ensure clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (F), Location of offsetting emissions:  
Former Paragraph (d)(1)(C)(vi) is recodified Section (F), and amended to codify (a) and (b) language into subparagraphs (F)(1) and (F)(2) for consistency with federal regulation and clarity.

Regulation 61-62.5, Standard No. 7.1, Section (G), Emission offsetting ratios:  
Paragraph (d)(1)(C)(vii) is recodified Section (G).

Regulation 61-62.5, Standard No. 7.1, Section (G), Emission offsetting ratios:  
Paragraph (d)(1)(C)(vii)(b) is recodified (G)(2), and amended to add the word “increases” to read “Emissions increases for ozone nonattainment areas shall” for clarity. The table is amended to strike “Subpart I” and “>1 to 1” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (G), Emission offsetting ratios:  
Former paragraphs (d)(1)(C)(viii) through (d)(1)(E) are stricken for reorganization of regulatory text.

Regulation 61-62.5, Standard No. 7.1, Section (H), Interpollutant offsetting:  
Section (H) is added to provide federal language on interpollutant offsetting, for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (I), Banking of emission offsets:  
Section (I) is added to provide language on banking of emission offsets for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (J)  
Section (J) is added in alphanumeric order, and the word “[Reserved]” is added.

Regulation 61-62.5, Standard No. 7.1, Section (K)  
Section (K) is added in alphanumeric order, and the word “[Reserved]” is added.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:  
Section (L), title, is added to read “Source obligation.” for clarity and usability.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:  
Former Paragraphs (d)(2)(A) through (d)(2)(D) are recodified (L)(1) through (L)(4) in alphanumeric order for consistency. Paragraph (L)(3) is amended to strike “plan” and replace with “State Implementation Plan” for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:  
Former Paragraph (d)(3) is recodified (L)(5), and amended to add the title phrase “Monitoring, Recordkeeping, and Reporting.” for clarity and usability, and amended to strike the word “to” in “apply to” and replace it with the phrase “with respect to any regulated NSR pollutant emitted from” for consistency with federal regulations,

and amended to add the phrase “of such pollutant” following the word “increase” for consistency with federal regulations.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:  
Paragraph (L)(5)(c) is added in alphanumeric order to read “If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the

information set out in paragraph (L)(5)(b) to the reviewing authority. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the reviewing authority before beginning actual construction.” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:

Paragraph (L)(6) is added in alphanumeric order to provide federal language on “reasonable possibility” for consistency with federal regulations. Revised language to ensure clarity and internal consistency.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:

Former Paragraph (d)(4) is stricken, because this language pertains to PAL requirements, and is covered in the Actuals PALs section.

Regulation 61-62.5, Standard No. 7.1, Section (L), Source obligation:

Former Paragraph (d)(5) is recodified (L)(7) in alphanumeric order.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:

Section (M), title, added to read “Public participation.” for clarity and usability.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:

Former Paragraph (d)(6) is recodified (M)(1), and amended to strike the phrase “Public Participation”

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:

Former paragraph (d)(7) and subparagraphs (d)(7)(i) through (d)(7)(x) are recodified (M)(2) and subparagraphs (M)(2)(a) through (M)(2)(j). Amended throughout to strike the word “plant” and replace with the word “facility” for clarity and consistency. Revised language to ensure clarity and internal consistency and revised codification and citations in alphanumeric order.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:

Former (d)(7)(iii) is recodified (M)(2)(c), and amended to add the sentence “This requirement may be met by making these materials available at a physical location or on a public website identified by the Department.” for consistency with federal regulation changes to public noticing methods.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:

Former (d)(7)(iv) is recodified (M)(2)(d), and amended to read “Notify the public, by posting the notice, for the duration of the public comment period, on a public website identified by the Department. This consistent noticing method shall be used for all draft permits subject to notice under this section. The public website notice shall include a notice of public comment including notice of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The public website notice shall also include the draft permit, information on how to access the administrative record for the draft permit and how to request and/or attend a public hearing on the draft permit. The Department may use additional means to provide adequate notice to the affected public, including by publishing the notice in a newspaper of general circulation in each region in which the proposed source or modification would be constructed (or in a state publication designed to give general public notice).” to define the Department’s consistent noticing method for public notice, for consistency with federal regulation changes to public noticing methods.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:

Former (d)(7)(vii) is recodified (M)(2)(g), and amended to strike the word “locations” and replace it with the phrase “location or on the same website” for consistency with federal regulation changes to public noticing methods.

Regulation 61-62.5, Standard No. 7.1, Section (M), Public participation:

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Former (d)(7)(ix) is recodified (M)(2)(i), and amended to add the phrase “or on the same website” for consistency with federal regulation changes to public noticing methods.

Regulation 61-62.5, Standard No. 7.1, Former Section (e), Exemptions:

Former section (e) is stricken in its entirety for reorganization of regulatory text. Former reserved sections (f) through (h) are stricken in their entirety for clarity.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:

Former section (i) is recodified (N) and amended to revise codification and citations in alphanumeric order. Section (N) is amended throughout to strike citations to Regulation 61-62.5 Standard 7, “Prevention of Significant Deterioration” and replace with citations within Regulation 61-62.5, Standard 7.1, for internal consistency and usability.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:

Former (i)(1)(iii)(B) is recodified (N)(1)(c)(ii), and amended to correct the citation to Regulation 61-62.1, Section II, “Permit Requirements.”

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:

Former (i)(2)(i) is recodified (N)(2)(a), and amended to change the citation of “(c)(1)” to “(B)(3)” to correctly cite the definition of baseline actual emissions.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:

Former (i)(2)(iv)(B) is recodified (N)(2)(d)(ii), and amended to strike “section” and replace it with “Section” for clarity and consistency.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:

Former (i)(5) is recodified (N)(5), and amended to add the sentence “This includes the requirement that the Department provide the public with notice of the proposed approval of a PAL permit and at least a thirty (30)-day period for submittal of public comment.” for consistency with federal regulation.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:

Former (i)(14)(i)(G) is recodified (N)(14)(a)(vii), and amended to strike the phrase “Title V Operating Permit Program” for clarity and consistency.

Regulation 61-62.5, Standard No. 7.1, Section (N), Actuals PALs:

Former (i)(14)(ii)(D) is recodified (N)(14)(b)(iv), and amended to strike the phrase “the applicable Title V operating permit program” and add the citation “Regulation 61-62.70” for clarity and consistency.

Regulation 61-62.5, Standard No. 7.1, Section (O):

Former Paragraph (j) is recodified (O) to ensure clarity and internal consistency.

### **Regulation 61-62.70, Title V Operating Permit Program**

Regulation 61-62.70, Section 70.7, Permit issuance, renewal, reopening, and revisions:

Paragraph (h)(1) is amended to define the Department’s consistent noticing method for public notice, for consistency with federal regulation changes to public noticing methods.

### **Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons may submit written comment(s) on the proposed amendments by mail to Marie Brown in the Bureau of Air Quality, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; by fax at 803-898-4117; or by email at brownmf@dhec.sc.gov. To be considered, the Department must receive the comment(s) by 5:00 p.m. on July 23, 2018, the close of the public comment period.

Comments received during the write-in public comment period by the deadline set forth above will be submitted to the S.C. Board of Health and Environmental Control (“Board”) in a Summary of Public Comments and Department Responses for the Board’s consideration at the public hearing.

The Board will conduct a public hearing on the proposed amendments during its September 13, 2018, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures at the DHEC Building, all visitors should enter through the Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>.

The Department publishes a Monthly Regulation Development Update tracking the status of its proposed new regulations, amendments, and repeals and providing links to associated State Register documents at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>.

**Preliminary Fiscal Impact Statement:**

There is no anticipated increased cost to the state or its political subdivisions resulting from this proposed revision. Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the SIP include revisions that will help streamline state requirements and therefore reduce economic burden.

**Statement of Need and Reasonableness:**

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

**DESCRIPTION OF REGULATION:** Amendment of Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina State Implementation Plan (“SIP”).

**Purpose:** The proposed amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, support the Department’s goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. These amendments expand and clarify definitions applicable to air pollution control regulations and standards; streamline permitting options; clarify reporting requirements; identify the Department’s consistent noticing method; improve the regulations’ organizational structure; and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62.

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

**Plan for Implementation:** The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to this proposed amendment. Additionally, printed copies are available for a fee from the Department’s Freedom of Information Office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of the amendment and any associated information.

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

- (1) The Department proposes amending R.61-62.1, Definitions and General Requirements, Section II, Permit Requirements, to expand and improve consistency in language regarding general and registration permits.

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(2) The Department proposes amending the introductory paragraph to R.61-62.5, Standard No. 2, Ambient Air Quality Standards, to remove the sentence describing the test method for Gaseous Fluorides to improve the accuracy and clarity of the regulation's text.

(3) The Department proposes amending R.61-62.5, Standard No. 5.2, Control of Oxides of Nitrogen (NO<sub>x</sub>), to update applicability and exemptions, as well as to propose corrections for internal consistency, punctuation, codification, and spelling.

(4) The Department proposes amending R.61-62.5, Standard No. 7, Prevention of Significant Deterioration, to update applicability and exemptions, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.

(5) The Department proposes amending R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR), to improve the overall clarity and structure of the regulation, as well as to propose corrections for consistency with federal regulations, internal consistency, punctuation, codification, and spelling.

(6) The Department proposes amending R.61-62.1, Definitions and General Requirements; Regulation 61-62.5, Standard No. 7, Prevention of Significant Deterioration; R.61-62.5, Standard No. 7.1, Nonattainment New Source Review (NSR); and R.61-62.70, Title V Operating Permit Program, to update public participation procedures.

The Department also proposes other changes to R.61-62, Air Pollution Control Regulations and Standards, including definitional updates, clarification of certain permitting provisions, and other changes and additions deemed necessary, as well as corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of R.61-62.

In accordance with S.C. Code Section 1-23-120(A) (Supp. 2017), these amendments require General Assembly review.

The intent of these amendments is to simplify, clarify, and correct elements of the Department's air quality regulations to support the Department's goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. There would be no detrimental effect on the environment or public health if the proposed amendments to R. 61-62 and the SIP are adopted.

### DETERMINATION OF COSTS AND BENEFITS:

The Department does not anticipate an increase in costs to the state, its political subdivisions, or the regulated community resulting from these proposed revisions. The proposed amendments ensure consistency with Environmental Protection Agency ("EPA") regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The proposed amendments will benefit the regulated community by maintaining state implementation of the federal requirements, as opposed to federal implementation.

Amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, and the SIP, will help streamline state requirements related to permitting and other matters to conform to current Prevention of Significant Deterioration, New Source Review, and the Title V Permit Program standards. These revisions may

potentially save money for the regulated community by providing clarification on exemptions, permitting, and other requirements, while continuing to ensure environmental protection.

### UNCERTAINTIES OF ESTIMATES:

There are no uncertainties of estimates relative to the costs to the state or its political subdivisions. These revisions seek to provide clarity to the regulated community.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The amendments to Regulation 61-62, Air Pollution Control Regulations and Standards, seek to provide continued state-focused protection of the environment and public health.

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

The Department does not anticipate detrimental effect on the environment and/or public health associated with these revisions. To the contrary, the state’s delegated authority to implement programs beneficial to public health and the environment may be compromised if these amendments are not adopted. Permit streamlining and regulatory text clarification seek to have a positive effect on both the environment and public health.

**Statement of Rationale:**

The Department proposes amending Regulation 61-62, Air Pollution Control Regulations and Standards, to support the goal of promoting and protecting the health of the public and the environment in a more efficient and effective manner. These amendments expand and clarify definitions applicable to air pollution control regulations and standards; streamline permitting options; clarify reporting requirements; identify the Department’s consistent noticing method; improve the regulations’ organizational structure; and provide corrections for consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62.

**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. 4814

**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**CHAPTER 61**

Statutory Authority: 1976 Code Sections 48-1-10 et seq. and the Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416

61-62. Air Pollution Control Regulations and Standards.

**Preamble:**

1. Pursuant to the South Carolina Pollution Control Act, 1976 Code Sections 48-1-10 et seq., and the federal Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416, the Department must ensure national primary and secondary ambient air quality standards are achieved and maintained in South Carolina. No state may adopt or enforce an emission standard or limitation less stringent than these federal standards or limitations pursuant to 42 U.S.C. Section 7416.

2. The United States Environmental Protection Agency (EPA) promulgates amendments to the Code of Federal Regulations (CFR) throughout each calendar year. Recent federal amendments to 40 CFR Parts 60, 61, and 63 include revisions to New Source Performance Standards (NSPS) mandated by 42 U.S.C. Section 7411; federal National Emission Standards for Hazardous Air Pollutants (NESHAP) mandated by 42 U.S.C. Section 7412; and federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412.

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3. The Department proposes to amend Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards; Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants; Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories; and the South Carolina State Implementation Plan (SIP), to adopt the federal amendments to these standards promulgated from January 1, 2017, through December 31, 2017.

4. The Department proposes changes to Regulation 61-62.68, Chemical Accident Prevention Provisions, which include corrections for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary.

5. Regulation 61-62.96, Nitrogen Oxides (NO<sub>x</sub>) and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program, is based on the federal Clean Air Interstate Rule (CAIR). CAIR has been replaced by the federal Cross-State Air Pollution Rule (CSAPR) Trading Program, adopted by the Department as Regulation 61-62.97 on August 25, 2017. As a result, federal CAIR requirements implemented by Regulation 61-62.96 have sunsetted and are no longer in effect. The Department, therefore, proposes repealing Regulation 61-62.96 in its entirety.

6. The Department also proposes other changes to Regulation 61-62 that include corrections for internal consistency, clarification, reference, punctuation, codification, formatting, and spelling to improve the overall text of Regulation 61-62 as necessary.

7. South Carolina industries are already subject to these national air quality standards as a matter of federal law. Thus, there will be no increased cost to the state or its political subdivisions resulting from codification of these amendments to federal law. South Carolina is already reaping the environmental benefits of these amendments. There also will be no increased cost to the state or its political subdivisions as a result of the repeal of Regulation 61-62.96, which reflects the sunset of federal CAIR regulations.

8. In accordance with S.C. Code Section 1-23-120(H) (Supp. 2017), legislative review is not required because the Department proposes promulgating the amendments to maintain compliance with federal law. As such, neither a preliminary assessment report nor a preliminary fiscal impact statement is required.

9. The Department had a Notice of Drafting published in the March 23, 2018, *State Register*.

### Section-by-Section Discussion of Proposed Amendments:

#### **Regulation 61-62.60, South Carolina Designated Facility Plan and New Source Performance Standards**

Regulation 61-62.60, Subpart A, “General Provisions”:

Subpart A, Table, is amended to incorporate federal revisions at 82 FR 28561, June 23, 2017; and 82 FR 32644, July 17, 2017, by reference.

#### **Regulation 61-62.61, National Emission Standards for Hazardous Air Pollutants (NESHAP)**

Regulation 61-62.61, Subpart A, “General Provisions”:

Subpart A, Table, is amended to incorporate federal revisions at 82 FR 32644, July 17, 2017, by reference.

Regulation 61-62.61, Subpart W, “National Emission Standards for Radon Emissions from Operating Mill Tailings”:

Subpart W, Table, is amended to incorporate federal revisions at 82 FR 5142, January 17, 2017, by reference.

#### **Regulation 61-62.63, National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories**

Regulation 61-62.63, Subpart A, “General Provisions”:



Subpart A, Table, is amended to incorporate federal revisions at 82 FR 5401, January 18, 2017; 82 FR 47328, October 11, 2017; and 82 FR 48156, October 16, 2017, by reference.

Regulation 61-62.63, Subpart AA, “National Emission Standards for Hazardous Air Pollutants from Phosphoric Acid Manufacturing Plants”:

Subpart AA, Table, is amended to incorporate federal revisions at 82 FR 45193, September 28, 2017, by reference.

Regulation 61-62.63, Subpart BB, “National Emission Standards for Hazardous Air Pollutants from Phosphate Fertilizer Production Plants”:

Subpart BB, Table, is amended to incorporate federal revisions at 82 FR 45193, September 28, 2017, by reference.

Regulation 61-62.63, Subpart MM, “National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicemical Pulp Mills”:

Subpart MM, Table, is amended to incorporate federal revisions at 82 FR 47328, October 11, 2017, by reference.

Regulation 61-62.63, Subpart LLL, “National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry”:

Subpart LLL, Table, is amended to incorporate federal revisions at 82 FR 28562, June 23, 2017; and 82 FR 39671, August 22, 2017, by reference.

Regulation 61-62.63, Subpart NNN, “National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing”:

Subpart NNN, Table, is amended to incorporate federal revisions at 82 FR 60873, December 26, 2017, by reference.

Regulation 61-62.63, Subpart VVV, “National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works”:

Subpart VVV, Table, is amended to incorporate federal revisions at 82 FR 49513, October 26, 2017, by reference.

Regulation 61-62.63, Subpart XXX, “National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese”:

Subpart XXX, Table, is amended to incorporate federal revisions at 82 FR 5401, January 18, 2017, by reference.

Regulation 61-62.63, Subpart CCCC, “National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast”:

Subpart CCCC, Table, is amended to incorporate federal revisions at 82 FR 48156, October 16, 2017, by reference.

Regulation 61-62.63, Subpart UUUUU, “National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units”:

Subpart UUUUU, Table, is amended to incorporate federal revisions at 82 FR 16736, April 6, 2017, by reference.

**Regulation 61-62.68, Chemical Accident Prevention Provisions**

Regulation 61-62.68, Section 68.1, Scope:

Section 68.1, Scope, is amended to insert the words "Clean Air" between “section 112(r) of the” and “Act.” for clarity.

Regulation 61-62.68, Section 68.3, Definitions:

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Paragraph (e) is amended to strike the word “if” and replace it with the word “is” for consistency with the federal regulation.

Regulation 61-62.68, Section 68.115, Threshold determination:

Paragraph (a) is amended to strike the section symbol “§” and replace with the word “Section” to provide clarity and consistency.

Regulation 61-62.68, Section 68.126, Exclusion:

Section 68.126, Exclusion, is amended to strike the section symbol “§” and replace with the word “Section” to provide clarity and consistency.

Regulation 61-62.68, Section 68.130, List of Substances:

Tables 1, 2, 3 and 4 are amended by correcting errors in chemical nomenclature and an incorrect CAS number in Table 1. Footnote 1 to Tables 3 and 4 is also amended to strike the section symbol “§” and replace it with the word “Section” to provide clarity and consistency.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (d) is amended to strike the citation “(b)(2)” and replace with “(c)(2)”, and strike the citation “(b)(7)” and replace with “(c)(7)” for correct codification.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (g)(1) is amended to strike the citation “(e)” and replace with “(f)” for correct codification.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (g)(2) is amended to strike the citation “(f)(1)” and replace with “(g)(1)” for correct codification.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (h) is amended to strike the three citations to paragraph “(f)” and replace each with “(g)”, and strike the citation “(e)” and replace with “(f)” for correct codification.

Regulation 61-62.68, Section 68.220, Audits:

Paragraph (i) is amended to strike the citation “(g)” and replace with “(h)” for correct codification.

Appendix A to Part 68 is amended by correcting errors in chemical nomenclature.

### **Regulation 61-62.70, Title V Operating Permit Program**

Regulation 61-62.70, Section 70.3, Applicability:

Paragraph (a)(6) is stricken in its entirety to maintain compliance with federal regulations adopted at 70 FR 75320.

### **Regulation 61-62.96, Nitrogen Oxides (NO<sub>x</sub>) and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program**

Regulation 61-62.96, Nitrogen Oxides (NO<sub>x</sub>) and Sulfur Dioxide (SO<sub>2</sub>) Budget Trading Program, is repealed in its entirety.

### **Notice of Public Hearing and Opportunity for Public Comment:**

Interested persons may submit written comment(s) on the proposed amendments to Roger Jerry in the Bureau of Air Quality, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201; by fax at 803-898-4117; or by email at [jerryre@dhec.sc.gov](mailto:jerryre@dhec.sc.gov). To be considered, the Department must receive the comment(s) by 5:00 p.m. on July 23, 2018, the close of the public comment period. Comments received during the write-in public comment period by the deadline set forth above will be submitted by the

Bureau to the S.C. Board of Health and Environmental Control (“Board”) in a Summary of Public Comments and Department Responses for the Board’s consideration at the public hearing.

The Board will conduct a public hearing on the proposed amendments during its September 13, 2018, 10:00 a.m. meeting. Interested persons may make oral and/or submit written comments at the public hearing. Persons making oral comments should limit their statements to five (5) minutes or less. The meeting will take place in the Board Room of the DHEC Building, located at 2600 Bull Street, Columbia, S.C. 29201. Due to admittance procedures, all visitors must enter through the main Bull Street entrance and register at the front desk. The Department will publish a meeting agenda twenty-four (24) hours in advance indicating the order of its scheduled items at: <http://www.scdhec.gov/Agency/docs/AGENDA.PDF>.

The Department publishes a Monthly Regulation Development Update tracking the status of its proposed new regulations, amendments, and repeals and providing links to associated State Register documents at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>.

**Statement of Need and Reasonableness:**

The following presents an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

**DESCRIPTION OF REGULATION:** Amendment of Regulation 61-62, Air Pollution Control Regulations and Standards, and the South Carolina Air Quality Implementation Plan (SIP).

**Purpose:** The EPA promulgated amendments to national air quality standards in 2017. The recent federal amendments include clarification, guidance, and technical revisions to SIP requirements promulgated pursuant to 42 U.S.C. Sections 7410 and 7413; New Source Performance Standards (NSPS) mandated by 42 U.S.C. Section 7411; federal National Emission Standards for Hazardous Air Pollutants (NESHAP) mandated by 42 U.S.C. Section 7412; and federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories mandated by 42 U.S.C. Section 7412. The Department, therefore, proposes amending the aforementioned regulations and SIP to codify federal amendments to these standards promulgated from January 1, 2017, through December 31, 2017. Additionally, the Department proposes repealing R.61-62.96 due to sunsetted requirements no longer in effect and replaced by R.61-97. The Department also proposes corrections to R.61-62.68 for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary.

**Legal Authority:** 1976 Code Sections 48-1-10 et seq., and the Clean Air Act, 42 U.S.C. Sections 7410, 7413, and 7416.

**Plan for Implementation:** The proposed amendments will take effect upon approval by the Board of Health and Environmental Control and publication in the State Register. These requirements are in place at the federal level and are currently being implemented. The proposed amendments will be implemented in South Carolina by providing the regulated community with copies of the regulation, publishing associated information on the Department’s website at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/>, sending an email to stakeholders, and communicating with affected facilities during the permitting process.

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

The EPA promulgates amendments to its air quality regulations throughout each calendar year. Federal amendments in 2017 included revised NSPS rules, NESHAPs, and NESHAPs for Source Categories. States are mandated by law to adopt these federal amendments. These amendments are reasonable as they promote consistency and ensure compliance with both state and federal regulations. The proposed amendments also serve to repeal a regulation that is no longer in force, based on the sunseting of federal CAIR requirements. The

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proposed amendments also include corrections for internal consistency, clarification, chemical nomenclature, codification, and spelling to improve the overall text as necessary to ensure compliance with federal law.

### DETERMINATION OF COSTS AND BENEFITS:

There is no anticipated increase in costs to the state or its political subdivisions resulting from these proposed revisions. The standards to be adopted are already in effect and applicable to the regulated community as a matter of federal law, thus the amendments do not present a new cost to the regulated community. The proposed amendments incorporate the revisions to the EPA regulations, which the Department implements pursuant to the authority granted by Section 48-1-50 of the Pollution Control Act. The proposed amendments will benefit the regulated community by clarifying and updating the regulations and increasing their ease of use.

### UNCERTAINTIES OF ESTIMATES:

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

### EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH:

Adoption of the recent changes in federal regulations through the proposed amendments to Regulation 61-62 will provide continued protection of the environment and public health. Repeal of Regulation 61-62.96 has no detrimental effect on the environment and public health because the federal rule it was promulgated to satisfy, the Clean Air Interstate Rule, has sunsetted and is superseded by the Cross-State Air Pollution Rule. South Carolina's Regulation 61-62.97, Cross-State Air Pollution Rule (CSAPR) Trading Program, is already state-effective.

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

The state's authority to implement federal requirements, which are beneficial to the public health and environment, would be compromised if these amendments were not adopted in South Carolina.

### **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. 4800  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**  
 Statutory Authority: 1976 Code Sections 44-71-10 et seq.

61-78. Standards for Licensing Hospices.

**Synopsis:**

The Department of Health and Environmental Control (“Department”) amends R.61-78, Standards for Licensing Hospices. The amendments incorporate 2017 Act No. 61, which comprises changes to the Hospice Licensure Act, S.C. Code Sections 44-71-10 et seq. These regulatory amendments include requirements to register multiple locations and updated requirements for medication disposal to comply with the new statutory changes. The statutory changes also expand Joint Annual Report requirements to outpatient hospices; however, existing wording of R.61-78 adequately executes those requirements. The Department had a Notice of Drafting published in the *State Register* on June 23, 2017.

Section-by-Section Discussion of Amendments:

**TABLE OF CONTENTS**

The table of contents was updated to reflect amended sections.

**Section 61-78.100. DEFINITIONS**

The definitions of 100.CC Multiple Location, 100.HH Parent Hospice, and 100.PP Primary Office were added. The remaining definitions were updated to reflect the new codification.

**Section 61-78.213. Multiple Locations**

New Section 213 was added to delineate the requirements for multiple locations. Section 213.A requires hospices to register multiple locations with the Department prior to establishing, operating, maintaining, or representing as such. Section 213.B requires hospices to file an application for the registration of a multiple location. Section 213.C states that the registration of a multiple location is effective until the expiration of the license of the parent hospice.

**Section 61-78.214. Exceptions to Licensing Standards (formerly 61-78.213)**

Section 214 (formerly 213) was renumbered to adjust the codification.

**Section 61-78.401. General**

Section 401 was amended to include multiple locations as being subject to monetary penalties, denial, suspension, or revocation for violations of any statute, rule, or regulation.

**Section 61-78.1608. Disposition of Medications**

Section 1608.B was amended to refer to patients receiving services in hospice facilities only. Section 1608.C was added to require that upon the death of a patient receiving outpatient services, the hospice shall comply with S.C. Code Section 44-71-85. The remaining subsections were renumbered to adjust the codification.

**Section 61-78.2106. Utility Rooms**

Sections 2106.A and 2106.B were amended to change work station to nurses’ station for clarity and consistency.

**Section 61-78.2201. Fire Protection**

Section 2201.D was amended to change work station to nurses’ station for clarity and consistency.

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### **Instructions:**

Amend R.61-78 pursuant to each individual instruction provided with the text of the amendments below.

### **Text:**

61-78. Standards for Licensing Hospices.

### **Revise Section 200 of Table of Contents to read:**

#### **SECTION 200 LICENSE REQUIREMENTS**

201. Scope of Licensure

202. License Application

203. Compliance

204. Issuance of License

205. Licensing Fees

206. Late Fee

207. License Renewal

208. Change of License

209. Hospice Name

210. Licensed Area

211. Licensed Bed Capacity

212. Persons Received in Excess of Licensed Bed Capacity

213. Multiple Locations

214. Exceptions to Licensing Standards

### **Revise Section 61-78.100 to read:**

#### **Section 100 – DEFINITIONS**

For the purpose of this regulation, the following definitions shall apply:

A. Administrator. The individual designated by the governing body to be responsible for the day-to-day management of the Hospice and when licensed to provide Inpatient Services, Hospice Facility.

B. Advanced Practice Registered Nurse. An individual who has Official Recognition as such by the South Carolina Board of Nursing.

C. Airborne Infection Isolation (AII). A room designed to maintain Airborne Infection Isolation (AII), formerly called a negative pressure isolation room. An Airborne Infection Isolation (AII) room is a single-occupancy patient-care room used to isolate persons with suspected or confirmed infectious tuberculosis (TB) disease. Environmental factors are controlled in Airborne Infection Isolation (AII) rooms to minimize the transmission of infectious agents that are usually spread from person-to-person by droplet nuclei associated with coughing or aerosolization of contaminated fluids. Airborne Infection Isolation (AII) rooms may provide negative pressure in the room (so that air flows under the door gap into the room), an air flow rate of six to twelve (6 to 12) air changes per hour (ACH), and direct exhaust of air from the room to the outside of the building or recirculation of air through a high efficiency particulate air (HEPA) filter.

D. Architect. An individual currently registered as such by the South Carolina State Board of Architectural Examiners.

E. Attending Physician. The physician who is identified by the patient as having the most significant role in the determination and delivery of medical care to the patient.

F. Authorized Healthcare Provider. An individual authorized by law and currently licensed in South Carolina to provide specific care, treatment, or services to patients such as, advanced practice registered nurse, physician assistant.

G. Consultation. A visit by Department representative(s) to provide information to the licensee in order to facilitate compliance with these regulations.

H. Controlled Substance. A medication or other substance included in Schedule I, II, III, IV, and V of the Federal Controlled Substances Act and the South Carolina Controlled Substances Act.

I. Counseling Services. Counseling includes bereavement counseling, as well as dietary, spiritual, and any other counseling services provided to the individual and family or responsible party.

J. Department. The South Carolina Department of Health and Environmental Control (DHEC).

K. Dietitian. A person who is registered by the Commission on Dietetic Registration and licensed by the South Carolina Department of Labor, Licensing and Regulation.

L. Dietary Counseling. Education and interventions provided to the patient and family regarding appropriate nutritional intake as the patient's condition progresses. Dietary counseling is provided by qualified individuals, which may include a registered nurse, dietitian or nutritionist, when identified in the patient's plan of care.

M. Direct Care Staff Member/Direct Care Volunteer. Individuals who provide care to patients within the parameters of their training and/or as determined by state law or statute.

N. Health Assessment. An evaluation of the health status of a staff member or volunteer by a physician, other authorized healthcare provider, or registered nurse, pursuant to written standing orders and/or protocol approved by a physician's signature. The standing orders or protocol shall be reviewed annually by the physician, with a copy maintained at the Hospice.

O. Hospice Aide. An individual supervised by a registered nurse who renders assistance with personal care to patients needing assistance with activities of daily living, and who meets minimum qualifications and training as set by the Hospice.

P. Hospice. A centrally administered, interdisciplinary healthcare program, which provides a continuum of medically supervised palliative and supportive care for the terminally ill patient and the family or responsible party, including but not limited to home, Outpatient Services and Inpatient Services provided directly or through written agreement.

Q. Hospice Facility. An institution, place, or building in which a licensed Hospice provides room, board, and Inpatient Services on a twenty-four (24) hour basis to individuals requiring Hospice care pursuant to the orders of a physician. Prior to construction or establishment of a new Hospice Facility, or increasing the number of beds in an existing facility, a Hospice Facility shall obtain a Certificate of Need from the Department.

R. Inpatient Services. A continuum of medically supervised palliative and supportive care for the terminally ill patient and the family or responsible party provided by a Hospice for individuals intended to stay one (1) or more nights in an institution, place, or building licensed by the Department to provide room, board, and applicable care on a twenty-four (24) hour basis, such as a Hospice Facility, community residential care facility, nursing home, hospital, or general infirmary.

S. Inspection. A visit by Department representative(s) for the purpose of determining compliance with this regulation.

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T. Interdisciplinary Team or Group. A group designated by the Hospice to provide or supervise care, treatment, and services provided by the Hospice. The group must include at least the following individuals: a physician, a registered nurse, a social worker, and a pastoral or other counselor.

U. Investigation. A visit by Department representative(s) to an unlicensed or licensed Hospice or Hospice Facility for the purpose of determining the validity of allegations received by the Department.

V. Legend Drug.

1. Medication required by federal law to be labeled with any of the following statements prior to being dispensed or delivered:

a. "Caution: Federal law prohibits dispensing without prescription";

b. "Rx only" or;

2. Medication required by federal or state law to be dispensed pursuant to a prescription drug order or restricted to use by practitioners only; or

3. Any medication products designated by the South Carolina Board of Pharmacy to be a public health threat; or

4. Any prescribed compounded prescription within the meaning of the Pharmacy Act.

W. License. A certificate issued by the Department providing for the establishment and maintenance of a Hospice and, when specified on the face of the certificate, Hospice Facility in accordance with this regulation.

X. Licensed Nurse. A person licensed by the South Carolina Board of Nursing as a registered nurse or licensed practical nurse or a person licensed as a registered nurse or licensed practical nurse who resides in another state that has been granted multi-state licensing privileges by the South Carolina Board of Nursing. This person may practice nursing in any facility or activity licensed by the Department subject to the provisions and conditions as indicated in the Nurse Licensure Compact Act.

Y. Licensee. The individual, corporation, or public entity with whom rests the ultimate responsibility for maintaining statutory and regulatory standards for the licensed Hospice and, if applicable in accordance with the license issued, Hospice Facility.

Z. Life-limiting Condition. A condition with no reasonable hope for a cure and will certainly prevent a child from surviving to adulthood.

AA. Medication. A substance that has therapeutic effects, including, but not limited to, legend drugs, nonlegend and herbal products, vitamins, and nutritional supplements.

BB. Minor. A person seventeen (17) years of age or younger who has not been emancipated in accordance with state law.

CC. Multiple Location. A properly registered additional site, other than the licensed primary office, from which a parent hospice organization provides hospice services.

DD. Nonlegend Medication. A medication which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws of this state and the federal government.



EE. Occupational Therapist. A person currently licensed as such by the South Carolina Board of Occupational Therapy Examiners.

FF. Outpatient Services. A continuum of medically supervised palliative and supportive care for the terminally ill patient and the family or responsible party provided by a Hospice and intended for individuals not staying one or more nights in an institution, place, or building licensed by the Department to provide room, board, and applicable care on a twenty-four (24) hour basis, such as a Hospice Facility, community residential care facility, nursing home, hospital, or general infirmary.

GG. Palliative Care. Treatment that enhances comfort and improves the quality of an individual's life during the last phase of life.

HH. Parent Hospice. A properly licensed Hospice that, in addition to its primary office, also provides hospice services from a multiple location.

II. Patient. A person who receives care, treatment, or services from a Hospice licensed by the Department.

JJ. Pharmacist. An individual currently registered as such by the South Carolina Board of Pharmacy.

KK. Physical Assessment. An assessment of a patient by a physician or other authorized healthcare provider that addresses those issues identified in Section 1200 of this regulation.

LL. Physical Therapist. An individual currently registered as such by the South Carolina Board of Physical Therapy Examiners.

MM. Physician. An individual currently licensed by his or her state medical licensing board to practice medicine within that state.

NN. Physician Assistant. An individual currently licensed as such by the South Carolina Board of Medical Examiners.

OO. Plan of Care. A documented regimen of care, treatment, and services prepared by the Hospice for each patient based on assessment data and implemented for the benefit of the patient.

PP. Primary Office. The main office of a Hospice program from which a parent hospice provides hospice services to patients and their families and from which a parent hospice performs oversight, administrative, and coordination of care duties for any multiple location.

QQ. Quality Improvement Program. The process used by the Hospice to examine its methods and practices of providing care, identifying the opportunities to improve its performance, and taking actions that result in higher quality of care for the Hospice's patients.

RR. Repeat Violation. The recurrence of a violation cited under the same section of the regulation within a thirty-six (36) month period. The time period determinant of repeat violation status is not interrupted by licensee changes.

SS. Respite Care. Short-term care provided to an individual to relieve the family members, responsible party, or other persons caring for the individual.

TT. Responsible Party. A person who is authorized by law to make decisions on behalf of a patient, including, but not limited to, a court-appointed guardian or conservator, or person with a health care or other durable power of attorney.

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UU. Restraint. Any means by which movement of a patient is inhibited, including physical, mechanical, and/or chemical. In addition, devices shall be considered a restraint if a patient is unable to easily release from the device.

VV. Revocation of License. An action by the Department to cancel or annul a license by recalling, withdrawing, or rescinding its authority to operate.

WW. Social Worker. An individual who is licensed by the South Carolina Board of Social Worker Examiners.

XX. Speech Therapist. An individual currently licensed as such by the South Carolina Board of Speech-Language Pathology and Audiology.

YY. Staff Member. A person who is a compensated employee of the Hospice on either a full or part-time basis.

ZZ. Suspension of License. An action by the Department requiring a Hospice to cease operations for a period of time or to require a Hospice to cease admitting patients until such time as the Department rescinds that restriction.

AAA. Terminally Ill. A medical prognosis that, if the disease runs its usual course, limits an individual's life expectancy to twenty-four (24) months or less; or, if the individual is twenty-one (21) years of age or less includes a Life-limiting Condition.

BBB. Volunteer. An individual who performs tasks at the Hospice at the direction of the administrator or his or her designee without compensation.

### **Add Section 61-78.213 to read:**

#### **213. Multiple Locations**

A. A Hospice shall not establish, operate, or maintain a multiple location or represent itself as such without first registering the multiple location with the Department and receiving approval of the registration from the Department confirming that the Hospice has properly filed the application to amend its license and include the multiple location.

B. Hospices desiring to obtain approval for the registration of a multiple location shall file with the Department an application on a form prescribed, prepared, and furnished by the Department.

C. A multiple location registration shall be effective until the expiration of the license of the parent hospice in effect at the time of the initial approval of the multiple location.

### **Revise Section 61-78.213 to read:**

#### **214. Exceptions to Licensing Standards**

The Department has the authority to make exceptions to these standards where it is determined that the health, safety, and well-being of the patients are not compromised, and provided the standard is not specifically required by statute.

### **Revise Section 61-78.401 to read:**

#### **401. General**

When the Department determines that a Hospice, Hospice Facility, or multiple location is in violation of any statutory provision, rule, or regulation relating to the operation or maintenance of such Hospice, Hospice Facility, or multiple location, the Department, upon proper notice to the licensee, may impose a monetary penalty, and deny, suspend, or revoke its license.

**Revise Section 61-78.1608 to read:**

**1608. Disposition of Medications (I)**

A. Upon discharge or death of a patient, a Hospice in possession of unused medications belonging to the patient that do not constitute a controlled substance under 21 U.S.C. Section 802 shall release the unused medications to the patient, family member, or responsible party, as appropriate.

B. Upon death of a patient receiving services in a Hospice Facility, a Hospice Facility in possession of unused medications belonging to the patient that constitutes a controlled substance under 21 U.S.C. Section 802 shall release the unused medication to an applicable person under 21 C.F.R. Section 1317.30 for disposal in accordance with requirements of the federal Drug Enforcement Administration. In the alternative, a facility that constitutes a long-term care facility under 21 C.F.R. 1300.01 may dispose of the unused medications in accordance with 21 C.F.R. Sections 1317.30 and 1317.80.

C. Upon death of a patient receiving outpatient services, a Hospice shall comply with S.C. Code Section 44-71-85.

D. Upon discharge of a patient, a Hospice in possession of unused medications belonging to the patient that constitutes a controlled substance under 21 U.S.C. Section 802 shall release the unused medication to the “ultimate user” under 21 U.S.C. Section 802. In the alternative, a facility that constitutes a long-term care facility under 21 C.F.R. 1300.01 may dispose of the unused medications in accordance with 21 C.F.R. Sections 1317.30 and 1317.80 if authorized by the patient.

E. Expired biologicals, medical supplies, and solutions shall be disposed of in accord with Hospice Facility policy.

**Revise Section 61-78.2106 to read:**

**2106. Utility Rooms**

A. Soiled Utility Room: A Hospice Facility shall include at least one (1) soiled utility room per nurses’ station containing a clinical sink, work counter, waste receptacle and soiled linen receptacle.

B. Clean Utility Room: A Hospice Facility shall include at least one (1) clean utility room per nurses’ station containing a counter with handwashing sink and space for the storage and assembly of supplies for nursing procedures.

**Revise Section 61-78.2201 to read:**

**2201. Fire Protection**

A. A Hospice Facility shall include a partial, manual, automatic, and supervised fire alarm system. The system shall be arranged to transmit an alarm automatically to a third party by an approved method. The alarm system shall notify by audible and visual alarm all areas and floors of the building. The alarm system shall shut down central recirculating systems and outside air units that serve the area(s) of alarm origination as a minimum.

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B. All fire, smoke, heat, sprinkler flow, or manual fire alarming devices or systems must be connected to the main fire alarm system and trigger the system when they are activated.

C. A Hospice Facility shall include an NFPA 13 sprinkler system.

D. A Hospice Facility shall maintain a fire alarm pull station in or near each nurses' station.

### **Fiscal Impact Statement:**

As noted in the Fiscal Impact Statement for House Bill 3132 requested by the Senate Medical Affairs committee, the Department estimates an expenditure impact of eighty-three thousand sixty-three dollars (\$83,063) on the General Fund for at least the first year after promulgation of these amendments.

### **Statement of Need and Reasonableness:**

The following is based on an analysis of the factors listed in 1976 Code Sections 1-23-115(C)(1)-(3) and (9)-(11):

DESCRIPTION OF REGULATION: R.61-78, Standards for Licensing Hospices.

Purpose: The purpose of these amendments to R.61-78 is to incorporate recent changes to the Hospice Licensure Act, S.C. Code Sections 44-71-10 et seq., enacted by the General Assembly by 2017 Act No. 61. These amendments include requirements to register multiple locations and new requirements for medication disposal.

Legal Authority: 1976 Code Sections 44-71-10 et seq.

Plan for Implementation: The DHEC Regulation Development Update (accessible at <http://www.scdhec.gov/Agency/RegulationsAndUpdates/RegulationDevelopmentUpdate/>) provides a summary of and link to the regulation amendments. Additionally, printed copies of the regulation are available for a fee from the Department's Freedom of Information office. Upon taking legal effect, Department personnel will take appropriate steps to inform the regulated community of these amendments and any associated changes.

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

These amendments are necessary to incorporate recent statutory changes to the Hospice Licensure Act. The amendments to R.61-78 enable registration of multiple locations and update medication disposal requirements to the new statutory requirements.

### **DETERMINATION OF COSTS AND BENEFITS:**

As noted in the Fiscal Impact Statement for House Bill 3132 requested by the Senate Medical Affairs committee, the Department estimates an expenditure impact of eighty-three thousand sixty-three dollars (\$83,063) on the General Fund for at least the first year after promulgation of these amendments. Hospice providers will pay a licensure fee of one hundred dollars (\$100) per multiple location, plus fifty dollars (\$50) for each county where the multiple location provides services. Implementation of these amendments benefit the regulated community by executing recent changes to the Hospice Licensure Act.

### **UNCERTAINTIES OF ESTIMATES:**

None.

**EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:**

The amendments to R.61-78 seek to support the Department's goals relating to protection of public health through the anticipated benefits highlighted above. There is no anticipated effect on the environment.

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

There is no anticipated detrimental effect on the environment. If the amendments are not implemented, the regulation will be maintained in its current form without realizing the benefits of the recently enacted changes to the Hospice Licensure Act.

**Statement of Rationale:**

These amendments are necessary to incorporate recent changes to the Hospice Licensure Act, S.C. Code Sections 44-71-10 et seq. The amendments to R.61-78 enable registration of multiple locations and update medication disposal requirements to the new statutory requirements.

Document No. 4747

**DEPARTMENT OF SOCIAL SERVICES****CHAPTER 114**

Statutory Authority: 1976 Code Sections 43-1-80 and 63-13-180 et seq.

114-500 through 114-509. Regulations for the Licensing of Child Care Centers.

**Synopsis:**

Child care standards provide the foundation for ensuring safety and quality for children away from their homes. Quality care ensures the nurturing and protection that children need and helps to create an environment in which children can grow, learn and thrive. The South Carolina Department of Social Services administers regulations for child care facilities. The Department, with the advice and consent of the 17-member State Advisory Committee on the Regulation of Child Care Facilities, is charged with conducting a comprehensive review of these regulations at least once every three years. New regulations replace the current regulations in their entirety once passed through the legislative process. These regulations represent a collaborative effort toward improving the quality of care children receive. It demonstrates the value South Carolina citizens place on all children and our willingness to work and compromise to improve life for our state's greatest resource – our children.

Notice of Drafting was published in the *State Register* on March 24, 2017.

**Instructions:**

Replace regulation as shown below. All other items and sections remain unchanged.

**Text:**

114-500. General Provisions.

## A. Purpose

(1) The purpose of these regulations is to establish standards that protect the health, safety and well-being of children receiving care in child care facilities, through the formulation, application and enforcement of these regulations.

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### B. Applicability

(1) These regulations apply to child care centers as defined in section 114-501.A.(9) relating to definitions for profit and private child care centers.

(2) These regulations apply equally to profit, not for profit and private child care centers.

(3) These regulations do not apply to the following:

(a) Educational facilities, whether private or public, which operate solely for educational purposes in grade one or above;

(b) Five-year-old kindergarten programs;

(c) Kindergartens or nursery schools or other daytime programs, with or without stated educational purposes, operating no more than four hours a day and receiving children younger than lawful school age;

(d) Facilities operating for more than four hours a day in connection with a shopping center or service or other similar facility, where the same children are cared for less than four hours a day and not on a regular basis while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and immediately available; however, these facilities must meet local fire and sanitation requirements and maintain documentation of these requirements on file at the facility available for public inspection;

(e) School vacation or school holiday day camps for children operating in distinct sessions running less than three weeks per session, unless the day camp permits children to enroll in successive sessions so that their total attendance may exceed three consecutive weeks;

(f) Summer resident camps for children;

(g) Bible schools normally conducted during vacation periods;

(h) Facilities for persons with intellectual disability provided in Chapter 21, Title 44, Code of Laws of South Carolina;

(i) Facilities for the mentally ill as provided for in Chapter 17, Title 44, Code of Laws of South Carolina; and

(j) Child care centers owned and operated by a local church congregation or an established religious denomination or a religious college or university which does not receive state or federal financial assistance for child care services; however, these facilities must comply with the provisions of Code of Laws of South Carolina; Sections 63-13-1010 through 63-13-1080; 63-13-60 and 63-13-110 and that these facilities voluntarily may elect to become licensed according to the process as set forth in Code of Laws of South Carolina; Sections 63-13-10 through 63-13-40; 63-13-70 through 63-13-100; 63-13-120, 63-13-140, 63-13-160, 63-13-180; 63-13-410 through 63-13-460 and 63-13-1210 through 63-13-1240.

C. Access to and within the center, and physical site accommodations and equipment, shall be provided for children with disabilities to meet their health and safety needs in accordance with applicable state and federal laws.

114-501. Definitions.

A. Terms used in South Carolina Regulations, Chapter 114, Article 5, Part A, shall be all definitions cited in Section 63-13-10 et seq., Code of Laws of South Carolina in addition to the definitions that follow:

(1) Applicant: A person 21 years of age or older, representing a corporation, partnership, voluntary association, other public or private organization who has completed, signed and submitted a Department of Social Services application form and other requirements to the Department in order to obtain a child care center license or approval.

(2) Approval: A written notice issued by the Department to a department, agency or institution of the State, or a county, city or other political subdivision, not otherwise regularly licensed, approving the commencement of operations of a public child care center.

(3) Blood-borne pathogens: Pathogenic microorganisms that are present in human blood that can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV) and human immunodeficiency virus (HIV).

(4) Center Director: The on-site staff person, who is responsible for the daily operation of a child care center, including but not limited to supervision of staff and children. The center director can only have responsibility for one center and may not hold another full-time job during the hours of center operation.

(5) Center Co-Director: The on-site staff person who is responsible for the daily operation of a child care center when the director is not present including, but not limited to, the supervision of staff and children.

(6) Center Director Designee: The on-site staff person who assumes the responsibilities of the Director for limited periods of time, when neither the Director nor Co-Director is on-site.

(7) Central Registry of Child Abuse and Neglect: An automated, computerized listing, maintained by the Department of Social Services containing the names(s), address(es), birth date(s), identifying characteristics and other information about individual(s) who have been listed on the registry due to the determination of perpetrating abuse or neglect upon a child.

(8) Child: An individual, from birth through 12 years of age (chronologically), receiving care in a child care center; or up to 18 years of age if the child qualifies as special needs.

(9) Child care center: A center that is licensed for thirteen (13) or more children for care.

(10) Complaint: Statement(s) reporting unsatisfactory conditions in a child care facility.

(11) Complete Application: An application is complete on the date of receipt of the last document required by the Department in order to issue a license/approval.

(12) Department: Refers to the Department of Social Services.

(13) Emergency Person: An individual 18 years of age or older, not regularly employed by the child care center who is immediately available to serve as staff in emergency situations. This person shall meet all requirements of an employed teacher/caregiver (including experience), with the exception of training. This person may not work as an emergency person for more than 80 hours in a calendar year.

(14) Infant: A child under 12 months of age.

(15) License: A written notice issued by the Department to a private facility approving the commencement of operations of a child care center.

(16) Lifeguard: A person having the qualifications of and possessing a current American Red Cross, YMCA, or equivalent Lifeguard Certificate, current First Aid Certificate and current CPR (which includes adult, child, and infant) Certificate.

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(17) Night Care: A licensed facility operating between the hours of 1:00 am and 5:00 am.

(18) Owner: The owner may be independent of the staff of the child care facility and not be required to be on the premises. However, the owner can be the director or a teacher/caregiver. If the owner serves in the capacity of staff and directly supervises children, he/she shall have state and federal fingerprint reviews completed in accordance with Section 63-13-10 et. Seq., Code of Laws of SC, as amended, in addition to meeting all other requirements.

(19) Parent: The biological or adoptive mother or father, the legal guardian of the child or the individual agency with custody of the child.

(20) Preschool Child: A child 3 or 4 years of age or older but not yet eligible for public kindergarten.

(21) Provisional approval: A written notice issued by the Department to a department, agency or institution of the State, or a county, city or other political subdivision approving the commencement of operations of a public child care center although the operator is temporarily unable to comply with all of the requirements for approval.

(22) Provisional license: A license issued by the Department to a director when the director is temporarily unable to comply with all the requirements for a license/approval.

(23) Regular approval: A written notice issued by the Department for a two-year period to a department, agency or institution of the State, or a county, city or other political subdivision, approving the operation of a public child care center in accordance with the provisions of the regulations of the Department.

(24) Regular license: A license issued by the Department for two years to a director showing that the licensee is in compliance with the regulations of the Department at the time of issuance and authorizing the licensee to operate in accordance with the regulations of the Department.

(25) Renewal: To grant an extension of a regular license.

(26) Revocation: To void the regular license of a child care center.

(27) School-aged Child: A child at least old enough to enroll in public kindergarten.

(28) Sex Offender Registry: A statewide computerized listing of names and other identifying information on convicted sex offenders maintained and updated by the State Law Enforcement Division (SLED) and authorized by Section 23-3-400 et. Seq., Code of Laws of South Carolina, 1976, as amended.

(29) Staff: Full-time and part-time management, administrative, teaching/caregiving, program, maintenance, food service and service personnel; emergency and substitute personnel; supervised students; supervised student teachers and supervised volunteers.

(30) Staff:Child Ratio: The maximum number of children permitted per teacher/caregiver.

(31) Student Teacher: An individual enrolled in his/her final practicum to be qualified for teacher certification. He or she shall meet the same health standards as other staff and undergo background investigation. He or she may be included in staff:child ratios.

(32) Student Volunteer: An individual at least 16 years of age from a recognized educational institution or who may receive credit, reimbursement for expenses or a stipend for providing services in a trainee capacity under supervision of a staff member at all times when providing direct care to children shall not be counted in the staff:child ratio.



(33) Substitute Teacher: A person who is 18 years of age or older who teaches a class when the regular teacher is unavailable; e.g., due to illness, personal leave, or vacation. This person shall meet all the requirements of an employed teacher/caregiver including training.

(34) Supervision: Care provided to an individual child or a group of children. Adequate supervision requires staff awareness of and responsibility for the ongoing activity of each child, knowledge of activity requirements, and children's needs and accountability for their care. Adequate supervision also requires the director, and/or staff being near and having ready access to children in order to intervene when needed. Supervision requires adequate staff to meet staff:child ratios, being in the room at all times or on the playground at all times when children are present.

(35) Teacher/Caregiver: Any person whose duties include direct care, supervision, and guidance of children in a child care center.

(36) Toddler: A child 12 months of age or older, but younger than 24 months of age.

(37) Tracking: A written procedure to account for the presence of each child as the child enters and exits the premises, enters and exits a vehicle, or moves to a new location in or around the center.

(38) Training: Participation by child care center staff, in workshops, conferences, educational or provider associations, formal schooling, in-service training, or planned learning opportunities provided by qualified individuals. Training shall be age appropriate for the child population served by the child care center and in such subject areas related to: child care, child growth and development and/or early childhood education, nutrition, infection control/communicable disease management and causes, health and safety, signs and treatment of child abuse and/or neglect and shall include alternatives to corporal punishment. Training for directors may also be in areas related to supervision of child care staff or program administration.

(39) Two-year olds: A child 24 months of age or older but younger than 3 years of age.

(40) Volunteer: An individual parent, grandparent, other professional or skilled individual artist or crafts person at least 16 years of age infrequently assisting with the daily activities for children in a child care center who provides services without compensation and who is supervised by staff at all times when providing direct care to children. An individual meeting this definition is not required to undergo a fingerprint background check or health screening and is not counted in staff:child ratios.

114-502. Procedures.

A. Licensing/approvals

(1) Any person, corporation, partnership, voluntary association, or other organization, whether private or public, may secure information about the licensing/approval process by contacting staff of the State or Regional Child Care Licensing Office.

(2) An application for a license/approval shall be completed on appropriate Department forms and shall be signed by the director. The Department representative shall provide the applicant with the required number of forms, a copy of current child care center regulations, a copy of Section 63-13-10 et seq., Code of Laws of South Carolina, (Child Care Statute) and a copy of Sections of the Children's Code related to child abuse and neglect with an explanation of procedures and information required by the Department. The Department representative shall request in writing that health and fire officials make inspections of the facility.

(3) After giving the applicant at least two working days' notice, Department staff shall arrange a licensing/approval study during an on-site visit to the proposed facility for determining compliance with applicable regulations.

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(4) Health and fire officials shall inspect the facility to determine compliance with appropriate regulations and shall put in writing on appropriate forms the results of their inspections.

(5) The Department shall review the completed application form, completed licensing/approval inspection report, completed health and fire inspection reports, current child abuse and criminal history background records checks, written policies and other information specified by the Department to make a determination of issuance or non-issuance of a license/approval and shall take one of the following actions:

(a) Issue a regular license/regular approval if all the provisions of the regulations and statute for the operation of a child care center have been met;

(b) Issue a provisional license/provisional approval with an accompanying correction notice if one or more violations have been cited which do not seriously threaten the health, safety or well-being of children; or

(c) Deny the issuance of a license/approval if one or more violations seriously threaten the health, safety, or well-being of the children.

(6) Failure of Department staff, except as provided by statute, to approve or deny any complete application within ninety days shall result in the granting of a provisional license/provisional approval.

(7) If a license/approval is issued, the Department staff shall mail the license/approval directly to the director.

(8) The license/approval shall state clearly the name of the director, the address and type of child care facility, the date on which the license/approval was issued and will expire, and the maximum number of children to be present in the center at any one time.

(9) Department staff shall notify the director as follows if a provisional license/provisional approval is issued or an application for a license/approval is denied:

(a) If a provisional license/provisional approval is issued, the Department shall notify the director in writing of violations to be corrected. The violations shall be cited by regulation number and shall include a form issued by the Department for the director to complete a written plan to correct each violation as approved by the Department;

(b) If a license/approval is denied, the Department shall give the applicant written notice by certified mail indicating the reason(s) for the denial.

(10) If a facility is found to be in operation after the Department has denied the application for the license/approval and the administrative appeal/review procedure has been completed, the Department shall notify the Department's Office of General Counsel.

### B. Provisions of the license/approval

(1) A regular license/regular approval issued by the Department to the child care center shall be valid for two years from date of issuance, unless revoked by the Department or voluntarily surrendered by the director; provided however, that a change in location, ownership or sponsorship of the facility shall automatically void the license/approval.

(2) A provisional license/provisional approval issued by the Department to a child care center shall be issued for a period within which the deficiencies shall be corrected, and within the conditions permitted by statute.

(3) A provisional license/provisional approval shall be amended from a provisional to a regular license/approval when all deficiencies have been verified as corrected.

(4) An application for a license/approval may be denied or the license/approval may be revoked by the Department if the owner, director, any staff member, volunteer(s) or emergency person(s) has been determined to have abused or neglected any child as defined in Section 63-7-20 S.C. Code of Laws, as amended.

**C. Inspection and consultation**

(1) Department staff may visit and inspect a child care center once per year for annual inspection at any time during the hours of operation without prior notice to verify regulatory compliance.

(2) Department staff shall provide at least two working days' notice to the director or center director prior to conducting an initial or renewal inspection.

(3) The director and staff shall cooperate with the investigation and related inspections by providing access to the physical center, records, excluding financial records, and staff.

(4) The Department has the right to interview staff and parents relating to regulatory compliance.

(5) Upon receipt of a regulatory complaint, the Department shall conduct an unannounced inspection of the center to investigate the complaint. If the complaint is written, the Department shall provide a copy to the director upon request.

(6) The director may request consultation from the Department. Department staff shall provide technical assistance to the director as requested.

**D. Reasons for license/approval denial, revocation, or non-renewal**

(1) A license/approval may be denied, revoked or not renewed by the Department if the owner, director or staff member has been determined to have abused or neglected any child as defined in Section 63-7-20 S.C. Code of Laws, as amended.

(2) A license/approval may be denied, revoked or not renewed by the Department if cited deficiencies threaten serious harm to the health and/or safety of the children.

**E. Reporting of changes affecting license/approval**

(1) The director shall immediately report to the Department when an occurrence takes place that may affect the status of the license/approval including the following:

(a) Change in director, ownership, or sponsorship;

(b) Change in center location; and

(c) Major renovations or alterations to the building.

**F. License/approval renewal**

(1) One hundred and twenty (120) days prior to the expiration date of the current license/approval, Department staff shall notify the director in writing of the time and requirements for renewal and shall request health and fire inspections.

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(2) The same Department actions cited in 114-502.A.(2) through (10), above are applicable to the renewal process, except that the Department shall initiate the license/approval renewal process one hundred and twenty (120) days in advance.

### 114-503. Management, Administration, and Staffing.

#### A. Display of license/approval

(1) The center shall display the current license/approval, as well as any violations in a prominent public place in the center. The back of the license/approval shall be displayed if deficiencies are listed.

(2) When advertising or issuing other public notifications of the service provided, the official license number issued by the Department shall be included.

#### B. Capacity

(1) No child care center shall have present at any one time children in excess of the number for which it is licensed/approved.

(2) Exception: In the event of a natural disaster or unscheduled closing of a child care center, the capacity may be exceeded temporarily for a maximum of 90 days to accommodate the displaced children. The director shall notify the Department of the situation and maintain appropriate staff:child ratios at all times. Required records shall be kept on file for the new enrollees.

#### C. Child abuse

(1) The center shall immediately report suspected child abuse or child neglect to the Department's Office of Child Protective and Preventive Services or to local law enforcement in accordance with South Carolina Code Annotated Section 63-7-310 .

(2) The director and staff shall cooperate with Department staff during an investigation of child abuse or neglect. Cooperation shall include the following:

(a) Participate in informational conferences with Child Protective and Preventive Services staff;

(b) Release records as appropriate, of children and staff upon request; and

(c) Allow access to the center premises for inspection and investigation of the child abuse allegation by the Department and other officials as permitted by statute.

#### D. Reporting of incidents

(1) The center shall report the following incidents to the parents/guardians immediately and provide written notification to the Department within 48 hours after the occurrence:

(a) Accidents or injuries involving any child occurring at the center requiring professional medical treatment, and

(b) Child or staff occurrences of communicable diseases that the Department of Health and Environmental Control (DHEC) requires to be reported in its School Exclusion List.

(2) The following incidents shall be reported to the Department immediately and may be investigated by the Department:

- (a) A death of a child or staff person that occurs at the center;
- (b) A child who is missing from the premises or who is left unattended in a vehicle operated by the child care center;
- (c) Accidents or injuries involving any child occurring at the center requiring emergency professional medical treatment;
- (d) Major structural damage to center;
- (e) Natural or man-made disasters, including extreme weather conditions, which cause the center to be closed for more than one day of scheduled operation;
- (f) An occurrence requiring the services of a fire or police department, which affects the health and safety of children;
- (g) Charges or convictions of crimes against the owner, director, or any staff person;
- (h) Reports of alleged child abuse involving the owner, director, or any staff person;
- (i) A follow-up report shall be submitted to the Department as soon as an investigation of the facility is completed and corrective action is taken; and
- (j) Parents should be notified if a legal or health issue occurs which impacts the health and safety of his/her child. This notification should occur at the time of pick-up or on the next day the child is in care.

**E. Death of a child**

- (1) If the child dies while at the facility, the following shall be done:
  - (a) Immediately notify emergency medical personnel, the child's parents, and law enforcement;
  - (b) Immediately notify the licensing agency; and
  - (c) Provide information for children and parents as appropriate.

**F. Parent access and communication**

- (1) The center shall permit the parent of a child in care free and full access to his or her child without prior notice, while their child is receiving care, unless there is a court order limiting parental access. This free access must not disrupt instructional activities and classroom routines.
- (2) The center shall develop a policy for the release of children, which includes a security system to prevent the inappropriate release of a child to an unauthorized person. This policy shall be communicated with the parent upon admission.
- (3) Parents shall be provided with the following information upon admission:
  - (a) The right of parents to free and full access to their child in accordance with 114-503.F.(1);
  - (b) The policy and procedures on release of children specified in 114-503.F.(2);
  - (c) The program activity schedule for their child's age group and child care area;

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(d) The parent's responsibility to obtain necessary immunizations and physical examinations for their child;

(e) The policy and procedures for the administration of medications; and

(f) The policy and practices regarding the discipline and behavior management of children. This statement shall be re-signed if any discipline policy changes are made.

(4) Parents and staff shall sign and date an agreement, maintained on file and updated annually, that both parties have read and understand all policies relating to the operation of the facility.

### G. Child records

(1) The facility shall keep a separate record for each child.

(2) The file shall be kept in a confidential manner, but shall be immediately available to the Department, the child's teacher/caregiver, parent, or guardian upon request.

(3) Access to records is limited to persons listed in 114-503 G(2) unless requested by court order.

(4) Entries in a child's record shall be legible, dated and signed by the individual making the entry.

(5) A child's record shall be maintained on file at the child care center and made available to the Department upon request, and it shall contain the following:

(a) Child's full legal name, nickname, birth date, date of enrollment, current home address and home telephone number;

(b) Full name of both parent(s)/guardian(s), work and home telephone numbers, or telephone number(s) where they can be reached during the time the child is in the center;

(c) Name(s), address(es) and telephone number(s) of person(s) who can assume responsibility for the child in an emergency if the parent(s)/guardian(s) cannot be reached;

(d) Name, address, and telephone number of family physician or health resource;

(e) Name(s), address(es) and verification of identification, such as valid driver's license, other picture identification or personal family code word of person(s) authorized to take the child from the child care center;

(f) Accurate records of daily attendance for each child;

(g) Authorization from parent(s)/guardian(s) for child to obtain emergency medical treatment;

(h) Authorization from parent(s)/guardian(s) for child to be transported to and from the center during field trips and other away from the center activities;

(i) Authorization from parent(s)/guardian(s) for child to participate in swimming activities; and

(j) A written statement, signed by the parents, acknowledging their understanding and acceptance of the disciplinary policies of the center.

(6) A health record shall be maintained in the center for each child enrolled, and it shall include all of the following information:

(a) A signed statement of the child's health prior to admission to the child care center on the appropriate DSS form;

(b) A current South Carolina certificate of Immunization; and

(c) Other health information if deemed necessary by the director of the center and/or by parent(s)/guardian(s).

(7) Emergency information for each child shall be easily and immediately accessible while at the center, during transportation, and during any trips away from the premises, and it shall include the following:

(a) The full name of both parents/guardian, and updated address, work, home and mobile numbers where they can be reached during the time the child is in the center;

(b) The name, address, telephone number and relationship of at least two individuals designated by the parents/guardian to be contacted in an emergency and who have the authority to obtain emergency medical treatment for the child;

(c) The name, address and telephone number of the child's physician, and the emergency care, medical and dental care provider;

(d) Health insurance information;

(e) Consent for emergency treatment; and

(f) Permission to transport to hospital.

(8) Emergency information shall be updated by the parent as changes occur.

H. Staff records shall include the following:

(1) Names, positions and hours of duty of staff members;

(2) Written policies that refer to or apply to DSS licensing regulations;

(3) Three letters of reference for the center director;

(4) Criminal history background records check forms for the director, staff, emergency person(s), and substitute (s);

(5) Record of training for director and staff; and

(6) Written statements signed by all staff members regarding disciplinary policies of the center.

(7) The director shall maintain health records in the center for himself/herself, staff, and emergency person(s) in accordance with 114-505.G.(1)(a) through (d).

I. Confidentiality and applicable laws and regulations

(1) The center shall have written policy to safeguard the confidentiality of all records.

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(2) A child's record, emergency information, photograph and other information about the child or family and information that may identify a child by name or address is confidential and may not be copied, posted on a web site or disclosed to unauthorized persons, without written consent from the child's parent.

(3) The center shall comply with all applicable federal, state, and local laws, regulations, and ordinances.

(4) The center shall make available at least one copy of Section 63-13-10 et seq., Code of Laws of South Carolina, a copy of sections of the Children's Code related to child abuse and neglect and a copy of the current regulations for child care centers that will be provided by the Department.

### J. Communication

(1) The center shall have an operable telephone with an outside line that is accessible to staff persons in emergencies.

(2) Emergency telephone numbers for the police, fire department, ambulance service and poison control center shall be posted by each telephone.

(3) The center shall have an internal means of communication among staff.

(4) The center shall have electronic means of communications with the Department, except in locations where network service is unavailable or there is no coverage.

### K. Staffing

#### (1) Child abuse checks

(a) The director or staff shall not have been determined to have committed an act of child abuse or neglect or have been convicted of any crime listed in Chapter 3 of Title 16, Offenses Against the Person, any crime listed in Chapter 15 of Title 16, Offenses Against Morality and Decency or for the Crime of Contributing to the Delinquency of a Minor in Section 16-17-490.

(b) A check of the South Carolina Central Registry of Child Abuse and Neglect shall be requested by the director(s) on each staff person, except for volunteers in accordance with the following time lines:

(i) For the director(s) and at least two staff persons prior to the initial issuance of a regular or provisional license/approval.

(ii) For the director(s) and staff (including the emergency person) prior to employment and at renewal times, if the employee was hired more than 6 months prior to the renewal date.

(c) No child care center shall employ or retain an individual who has been determined to have committed an act of child abuse or neglect.

#### (2) Background criminal history checks

(a) To be employed by or to provide teacher/caregiver services at a child care facility, a person shall first undergo a State fingerprint review from the State Law Enforcement Division (SLED).

(b) A person may be provisionally employed or may provisionally provide teacher/caregiver services after the favorable completion of the state fingerprint review. The Federal Bureau of Investigation (FBI) fingerprints shall be submitted for review within 14 business days upon receiving the SLED results. Upon the completed FBI review, the results will be forwarded to the appropriate Department for distribution.



(c) No child care facility may employ a person, engage the services of or knowingly allow a person in the child care facility during normal hours of operation who is required to register under the sex offender registry act pursuant to SC Code of Laws Section 23-3-430 or who has been convicted of:

(i) A crime listed in Code of Laws of South Carolina; Chapter 3 of Title 16, Offenses Against the Person;

(ii) A crime listed in Code of Laws of South Carolina; Chapter 15 of Title 16, Offenses Against Morality and Decency;

(iii) The crime of contributing to the delinquency of a minor, contained in Code of Laws of South Carolina; Section 16-17-490.

(d) The results of the fingerprint reviews are valid and reviews are not required to be repeated as long as the person remains employed by or continues providing teacher/caregiver services in a child care facility; however, if a person has a break in service of one year or longer, the fingerprint reviews shall be repeated.

(e) Copies of State and Federal fingerprint results shall be retained in the staff file and available for review by Department staff, upon request.

(3) Center Director and/or Center Co-Director(s)

(a) There shall be a center director and/or center co-director(s) responsible for the following:

(i) Administration and management of the center;

(ii) Safety and protection of the children;

(iii) Development and implementation of policies and procedures;

(iv) Communication with parents about the policies and procedures of the center;

(v) Staff hiring, supervision and ongoing professional development; and

(vi) Compliance with all applicable laws and regulations of the child care center.

(b) The center director(s) or a designee shall be physically present on-site during the hours of the center's operation. A center co-director is required when the program operates more than 12 hours per day.

(c) The center director and center co-director(s) shall be at least 21 years of age and meet one of the following qualifications:

(i) A bachelor's degree or advanced degree from a state-approved college or university in early childhood education, child development, child psychology or a related field that includes at least eighteen credit hours in child development and/or early childhood education;

(ii) A bachelor's degree from a state-approved college or university in any subject area, six months experience working with children in a licensed, approved or registered child care facility;

(iii) An associate's degree from a state-approved college or university in early childhood education, child development, child psychology or a related field, that includes at least eighteen credit hours in child development and/or early childhood education with six months' work experience in a licensed, approved or registered child care facility;

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(iv) A diploma in child development/early childhood education from a state-approved institution or a child development associate credential (CDA), and one year work experience in a licensed, approved or registered child care facility; or

(v) A High School Diploma or GED, and Early Childhood Development (ECD) 101 with 3 years' experience in a licensed, approved or registered child care facility. One year shall include supervision of child care staff.

### (4) Caregivers/Teachers

(a) Caregivers/Teachers shall meet the following:

(i) Be at least 18 years of age, and able to read and write; and

(ii) A teacher/caregiver who began employment in a licensed or approved child care center in South Carolina after June 30, 1994, must have at least a high school diploma or General Educational Development Certificate (GED) and at least six months' experience as a teacher/caregiver in a licensed or approved child care facility. However, a teacher/caregiver who is prevented from obtaining a high school diploma or GED because of a disability, and who otherwise is qualified to perform the essential functions of the position of teacher/caregiver, must have at least a high school Certificate of Completion and at least six months' experience as a teacher/caregiver in a licensed or approved child care facility. If a teacher/caregiver does not meet the experience requirements, the teacher/caregiver must be directly supervised for six months by a staff person with at least one-year experience as a teacher/caregiver in a licensed or approved child care facility. Within six months of being employed, a teacher/caregiver must have six clock hours of training in child growth and development and early childhood education or shall continue to be under the direct supervision of a teacher/caregiver who has at least one year of experience as a teacher/caregiver in a licensed or approved child care facility; or

(iii) A teacher/caregiver who has two years' experience as a teacher/caregiver in a licensed or approved facility and was employed as of July 1, 1994, in a licensed or approved child care center in South Carolina is exempt from the high school diploma, General Education Development (GED), and Certificate of Completion requirements of (ii) above.

(b) Exception: A teacher/caregiver with an undergraduate degree from a state approved college or university in early childhood, child development, elementary education, or a related field may begin working with the children immediately without additional supervision as long as they have 60 days' field experience with a group of children aged 0-8.

(c) Exception: A teacher/caregiver may be 17 years of age if he/she has received his/her GED or high school diploma and is continuously supervised by a qualified teacher/caregiver who is in the room at all times.

(d) Exception: Staff persons who were employed prior to the effective date of these revised regulations are not required to meet the staff qualifications specified in this chapter if the staff qualifications required in the prior regulations are met. If a teacher/caregiver has had more than a twelve-month break in service, the new guidelines shall be met for re-employment as a teacher/caregiver.

### (5) Professional development

(a) The director(s) shall provide orientation for all new staff, volunteer(s), and emergency person(s) prior to their employment, volunteering, and student/teacher training. This orientation shall include the following:

(i) Specific job duties and responsibilities;

(ii) The requirements of this chapter related to their job; and

(iii) The policies and procedures of the center that affect the health and safety of children.

(b) The director shall participate in at least twenty clock hours of training annually. At least five clock hours shall be related to program administration and at least five clock hours shall be in child growth and development and/or health and safety excluding first aid and CPR training. The remaining hours shall come from the following areas: Curriculum, Nutrition, Special Needs, Child Guidance, Professional Development, or other areas approved by the Department, and must include blood-borne pathogens training as required by OSHA. Directors who receive training in excess of twenty hours per year may carry over ten hours to the following year in the category earned.

(c) All staff, with the exception of emergency person(s) and volunteer(s), providing direct care to the children shall participate in at least fifteen clock hours annually. The hours shall come from at least three of the following areas: child growth and development, curriculum, Child Guidance, Health and Safety, Nutrition, Special Needs, Professional Development, Program Administration, or other areas approved by the Department, and must include blood-borne pathogens training as required by OSHA. CPR and first aid training do not count in the fifteen hours.

(d) Caregivers who receive training in excess of fifteen hours per year may carry over five hours to the following year in the category earned.

(e) When children with special needs are enrolled, the director and staff members shall receive orientation and/or training in understanding the child's special needs and ways of working in group settings when children with special needs are enrolled.

(f) All staff shall receive information regarding the developmental abilities of the age group(s) with whom the teacher/caregiver will be working.

(g) Records of training received shall be kept on the premises and include the name of the person trained, the person or persons conducting the training, date, number of hours, location, and the competency area of the training.

(h) At least one person who is certified in pediatric first aid, including rescue breathing, CPR, and management of a blocked airway shall be present in the center at all times when children are in care, and during group outings or field trips. It is recommended that a CPR certified teacher be in each infant and toddler classroom at all times when children are in care. It is recommended that a CPR/first aid certified caregiver must always be present and immediately available when any child is eating. Training shall be provided by an individual who is certified as a trainer by a recognized health care organization.

114-504. Supervision.

A. Children shall be directly supervised at all times by qualified staff persons:

(1) Directly supervised for infants, toddlers and two year olds means staff persons shall be in the same room or area as the children and that the children shall be within their sight at all times;

(2) Directly supervised for preschool and school-age children means staff persons are physically near, readily accessible, aware and responsible for the ongoing activity of each child and able to intervene when needed;

(3) The center shall have a written procedure to account for the presence of each child as the child enters and exits the premises, enters and exits a vehicle or moves to a new location in or around the center;

(4) There shall be at least two staff persons in the center at all times; and

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(5) Children in feeding chairs shall be constantly supervised.

### B. Ratios

(1) The following staffing ratios apply at all times children are present on the premises and during activities away from the center and shall be prominently posted in all classrooms.

#### STAFF:CHILD RATIOS

Child's Age	Staff:Child Ratio
Birth to one year	1:5
One to two years	1:6
Two to three years	1:8
Three to four years	1:12
Four to five years	1:17
Five to six years	1:20
Six to twelve years	1:23

(2) When there are mixed age groups in the same room, the staff:child ratio shall be consistent with the age of the majority of the children when no infants or toddlers are in the mixed age group.

(3) For mixed age groups, with one or more infants or toddlers, the ratios applicable to the youngest child in the group apply.

### C. Nap time staff:child ratios

(1) During nap times the following ratios apply as long as at least one other staff person is readily available:

#### NAP TIME STAFF:CHILD RATIOS

Child's Age	Staff:Child Ratio
Birth to one year	1:5
One to two years	1:6
Two to three years	1:16
Three to four years	1:24
Four years and older	1:34

### D. Water safety staffing

(1) The following staffing ratios apply at all times while children are swimming or wading. The staffing ratios shall also apply at all times while children are near a water body that poses a potential risk based upon the age of the child.

WATER SAFETY STAFF:CHILD RATIOS

Child's Age	Staff:Child Ratio
Birth to two years	1:1
Two to three years	1:2
Three to four years	1:3
Four to five years	1:6
Five years and older	2:25

(2) All swimming activities shall be supervised by a person with current lifeguard training certification. If this is a staff person who has current lifeguard training certification, they may be included in the staff:child ratio. In instances in which all staff members can, without the ability to swim, quickly reach any child, a certified lifeguard is unnecessary.

114-505. Health, Sanitation and Safety.

A. Child health

(1) There shall be a statement from a parent/guardian attesting to the health status of the child within 30 days prior to admission and utilizing the appropriate DSS Form.

(2) Children shall be excluded from child care when they exhibit the conditions listed in the South Carolina Department of Health and Environmental Control Exclusion Policy, State Law 1976, Code Section 44-1-110, 44-1-140, and 44-29-10.

(3) During hours of operation there shall be no smoking or consumption of alcoholic beverages, or use of other non-prescription narcotic or illegal substances on the center premises. People who appear to be under the influence of alcohol or other drugs shall not be in the center when children are present.

B. Sanitation

(1) Staff shall ensure that children's faces and hands are clean.

(2) Furniture, toys, and equipment that come into contact with children's mouths shall be washed, rinsed, and sanitized daily and more often if necessary.

(3) Furniture, toys and equipment soiled by secretion or excretion shall be sanitized before reuse.

(4) Linens and blankets as well as cribs, cots, and mats shall be cleaned at least weekly.

(5) If children brush their teeth at the center, each child shall have a separate, labeled toothbrush, stored with bristles exposed to circulating air, and not in contact with another toothbrush.

C. Emergency medical plan

(1) The center shall have an emergency medical plan to address the following:

(a) Medical conditions under which emergency care and treatment is warranted;

(b) Steps to be followed in a medical emergency;

(c) The hospital or source of health care to be used;

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(d) The method of transportation to be used; and

(e) An emergency staffing plan.

(2) Emergency information for the child shall be taken with the child to the hospital or emergency location.

(3) A staff person shall remain with the child at the hospital or emergency location until the parent arrives.

### D. Medications or medical procedures

(1) Written, signed and dated parental consent is required prior to the administration of any prescription or over the counter medication or administration of special medical procedures:

(a) All medications shall be used only for the child for whom the medication is labeled;

(b) Medications shall not be given in excess of the recommended dose; and

(c) Prescribed special medical procedures ordered for a specific child shall be written, signed, and dated by a physician or other legally authorized healthcare provider.

(2) Storage of medications:

(a) All medications shall be kept in their original labeled containers and have child protective caps. The child's first and last name shall be on all medications;

(b) All medications shall be stored in a separate locked container under proper conditions of sanitation, temperature, light, and moisture; and

(c) Discontinued and expired medications shall not be used and shall be returned to the parent or disposed of in a safe manner.

(3) Medication log:

(a) For each medication that is administered by a staff person, a log shall be kept including the child's name, the name of the medication, dosage, date, time and name of person administering the medication. This information shall be logged immediately following the administration of the medication and a copy provided to the child's parent(s)/guardian(s).

(4) Medication errors:

(a) Medication errors, e.g. failure to administer a medication at the prescribed time, administering an incorrect dosage of medication or administering the wrong medication, shall be recorded in the child's record; and

(b) The parent shall be immediately notified and notified in writing of a medication error or a suspected adverse reaction to a medication.

### E. First aid kit

(1) A first aid kit shall be available for the treatment of minor cuts and abrasions and shall be stored in a location inaccessible to children.

### F. Diapering

(1) Each room in which children who wear diapers are cared for shall have its own diaper-changing area adjacent to the hand-washing sink.

(2) Facilities caring for infants shall provide a diaper changing area located within clear view.

(3) Diaper changing procedures shall be consistent with those recommended by the Center for Disease Control and Prevention.

(4) Diapering surfaces shall be sanitizable.

(5) Diapering surfaces shall be clean, seamless, waterproof and sanitary.

(6) Diapering surfaces shall be cleaned and sanitized after each use by washing to remove visible soil followed by wiping with an approved sanitizing solution (e.g. 1 tablespoon of chlorine bleach per 1 quart of water) and/or disposable, non-absorbent paper sheets approved for this purpose and shall be discarded immediately after each diapering.

(7) Blood contaminated materials and diapers shall be discarded in a plastic bag with a secure tie. Surfaces contaminated with blood or blood-containing body fluids shall be cleaned with a solution of chlorine bleach and water.

(8) Diapering shall occur only at a diapering changing area or in a bathroom.

(9) Diaper changing areas shall not be used for any purpose other than for diapering.

(10) Individual disposable wipes shall be used at each diaper change and shall be placed in a plastic-lined, covered container and disposed of properly, and kept out the reach of children.

(11) Each waste and diaper container shall be labeled and clean and free of build-up of soil and odor. Wastewater from such cleaning operations shall be disposed of as sewage.

(12) Soiled disposable diapers and disposable wipes shall be kept in a closed, labeled hands-free operated, plastic lined receptacle within reach of diaper changing area separate from other trash. Soiled non-disposable items shall be kept in a sealed plastic bag after feces is disposed of through the sewage.

(13) Disposable non-absorbent paper sheets shall be disposed of immediately after diapering is completed.

(14) Soiled disposable diapers shall be disposed outside the building daily. Soiled non-disposable diapers shall be kept in a sealed plastic bag and returned to the parent daily.

(15) Staff shall check diapers and clothing at a frequency that ensures prompt changing of diapers and clothing.

(16) No child shall be left unattended while being diapered.

#### G. Staff health

(1) The director shall maintain the following records in the center for herself/himself, staff, and emergency person(s):

(a) Medical statements required by the Department and completed by the staff person verifying that his/her health is satisfactory. Medical statements shall be updated as necessary;

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(b) A health assessment from a health care provider assessing the ability of the staff person to work with children. The health assessment shall be completed within three months prior to employment or within the first month of employment and shall include health history, physical exam, vision and hearing screening, a review of immunization status, and a discussion regarding recommended vaccinations, including a one-time adult dose of TDAP. A new health assessment shall be obtained by the director and staff at least every four years after the initial assessment; and

(c) New employees must provide written evidence from a physician or health resource attesting that they are free from communicable tuberculosis pursuant to state statute or the South Carolina Department of Health and Environmental Control regulations or policy.

(d) For transferring employees, a current health assessment and written evidence that the employee is free from communicable tuberculosis can transfer with the employee pursuant to state statute or the South Carolina Department of Health and Environmental Control regulations or policy.

(2) No person who is known to be afflicted with any disease in a communicable form, or who is a known carrier of such a disease, or who is afflicted with boils, infected wounds, or sores or acute respiratory infection, shall work in any capacity in a child care center in which there is likelihood of such person transmitting disease or infection to other individuals.

(3) Any staff member, including the director, emergency person(s) and volunteer(s) who, upon examination or as a result of tests, shows a condition that could be detrimental to the children or staff, or which would prevent satisfactory performance of duties, shall not continue work at the child care center until the healthcare provider indicates that the condition no longer presents a threat to children or staff.

(4) Staff persons shall wash their hands with soap and warm running water upon arrival at the center, before preparing or serving food, before assisting a child with eating, after assisting a child with toileting or diapering, before and after toileting, after administering medication, after cleaning, after assisting with wiping noses, after contact with body fluids, after contact with animals and after using cleaning materials. Hands shall be washed even if gloves are worn to perform these tasks.

(5) Staff shall be excluded when they exhibit the conditions listed in the SC Department of Health and Environmental Control Exclusion Policy, pursuant to Section 44-1-110, 44-1-140, and 44-29-10 of the South Carolina Code Ann (2002).

### H. Fire safety and emergency preparedness

(1) Private and public child care centers shall comply with the regulations and codes of the State Fire Marshal.

(2) In the event of a natural disaster or unscheduled closing of a child care center, the capacity may be exceeded temporarily to accommodate the displaced children. The director shall notify the Department of the situation and maintain appropriate staff:child ratios at all times. Required records shall be kept on file for the new enrollees.

(3) The facility shall have an up to date written plan for evacuating in case of fire, a natural disaster, or other threatening situation that may pose a health or safety hazard. The facility shall also include procedures for staff training in this emergency plan.

### I. Transportation

(1) If the center provides or arranges for transportation through contract, the following transportation requirements apply:



(a) The staffing ratios specified in 114-504.B.(1) through (3) apply. The driver of the vehicle shall not be counted in the ratios for infants or toddlers.

(b) Each child shall be secured in an individual, age-appropriate safety restraint at all times the vehicle is in motion.

(c) Safety restraints shall be used in accordance with the manufacturer's instructions.

(d) A child shall not be left unattended in a vehicle.

(e) Transportation placement of children in the vehicle shall be in accordance with all applicable state and federal laws.

(f) The driver shall have a valid regular or commercial driver's license and shall be in compliance with Section 63-13-40 of the South Carolina Code of Laws.

(g) There shall be a first aid kit and emergency information on each child in the vehicle.

(h) Use of tobacco products is prohibited in the vehicle.

(i) Written consent from the parent is required prior to transportation.

(j) When the facility provides transportation to and from the child's home, the facility staff shall be responsible for picking the child up and returning the child to a designated location.

(k) The director and/or staff of the center shall provide the driver of the vehicle with a record that lists the name, address, and telephone number of the center, as well as names of children being transported.

(2) The following requirements apply for safe pick-up and drop-off:

(a) The center shall have safe crossways and pick-up and drop-off locations and communicate these locations to the parents.

(b) Children shall be directly supervised during boarding and exiting vehicles.

(c) The director and/or staff shall have on file, in the facility, written permission from parent(s)/guardian(s) for transporting children to and from the home, school, or other designated places, including center-planned field trips and activities.

(d) Written transportation plans for routine travel shall be on file. Plans shall include a checklist to account for the loading and unloading of children at every location.

114-506. Program.

A. Program of activities

(1) There shall be a written, planned, daily program of activities for all children.

(2) Activities shall be developmentally appropriate.

(3) Staff shall plan and provide daily age-appropriate activities in accordance with the child's developmental level, such as stories, music, art, cooking, living skills, puzzles, blocks, etc.

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(4) Children shall be provided daily indoor opportunities for freedom of movement.

(5) Quiet areas with supervision shall be made available to children desiring to be alone or to work on homework.

(6) Staff persons shall provide the opportunity for the children to ask questions and engage in conversations with others. Staff shall have frequent positive verbal communications with the children.

(7) Age appropriate radio and television, VCR tapes, DVDs and other media shall be previewed by the director and staff and used only as a supplement and enhancement to the daily program. No child shall be required to view these media programs.

(8) All children shall be given the opportunity for outdoor play daily, weather permitting.

(9) Napping expectations and time periods shall be developmentally appropriate and meet the needs of the individual child.

### B. Discipline and behavior management

(1) The facility's discipline policy shall outline methods of guidance appropriate to the ages of the children. Positive, non-violent, non-abusive methods for managing behavior shall be implemented.

(2) All teacher/caregivers shall sign a facility agreement to implement the discipline and behavior management policy, with a statement that specifies no corporal punishment.

(3) Emotional abuse is also prohibited, including but not limited to: profane, harsh, demeaning or humiliating language in the presence of children. Threatening, humiliating, ignoring, corrupting, terrorizing, or rejecting a child is prohibited.

(4) Withholding, forcing, or threatening to withhold or force food, sleep or toileting is prohibited.

(5) Unsupervised isolation of a child shall not be allowed. The child shall be within sight of staff if isolation from the group is used.

(6) The use of children to discipline other children is prohibited.

(7) Children shall not be restrained through drugs or mechanical restraints.

### 114-507. Physical Site.

#### A. Indoor space and conditions

(1) The director shall provide at least thirty-five (35) square feet of indoor play space per child, measured by Department staff from wall to wall. Department staff shall determine the total number of children to be cared for in each room by measuring and computing the rooms separately. Bathrooms, reception areas, isolation rooms, halls and space occupied by cupboards, shelves, furniture and equipment which are accessible to children for their use shall be allowable space. Kitchens, storage rooms, and storage cabinets used solely for or by staff shall be excluded. Halls, although included in total indoor space, shall not be used for activities or storage of furniture and equipment.

(2) Ventilation

(a) Child care areas, dining areas, kitchens, and bathrooms shall be ventilated by mechanical ventilation, such as fans or air conditioning, or at least one operable window.

(b) If freestanding fans are used, fans shall have a stable base, be equipped with protective guards and be placed in a safe location.

(c) Windows, including windows in doors, when utilized for ventilation purposes shall be securely screened to prevent the entrance of insects.

(d) Windows accessible to children under 5 years of age that are above ground level of the building shall be adjusted to limit the opening to less than 6 inches or protected with guards that do not block outdoor light.

(3) Safety glass shall be used on clear glass windows and doors that are within thirty-two inches above floor level and that are accessible to children. Decals shall be applied to all glass or sliding patio doors and placed at eye level of the children being cared for at the facility.

(4) Lighting

(a) Rooms, hallways, interior stairs, outside steps, outside doorways, porches, ramps, and fire escapes shall be lighted.

(b) At least twenty foot candles of light shall be required on all work surfaces in food preparation, equipment washing, utensil washing, hand-washing areas, and toilet rooms.

(c) Adequate, safe lighting for individual activities, for corridors, and for bathrooms shall be provided.

(5) Environmental hazards

(a) Safety barriers shall be placed around all heating and cooling sources, such as hot water pipes, fixed space heaters, wood- and coal-burning stoves, hot water heaters, and radiators, that are accessible to children to prevent accidents or injuries upon contact by the child.

(b) Knives, lighters, matches, projectile toys, tobacco products, microwave ovens, and other items that could be hazardous to children shall not be accessible to children.

(c) To prevent lead poisoning in children, child care centers shall meet applicable lead base paint requirements, as established by the South Carolina Department of Health and Environmental Control (DHEC), pursuant to South Carolina Code annotated Section 44-53-1310, et seq., and Regulation Number (61-85).

(d) Floors, walls, ceilings, windows, doors and other surfaces shall be free from hazards such as peeling paint, broken or loose parts, loose or torn flooring or carpeting, pinch and crush points, sharp edges, splinters, exposed bolts and openings that could cause head or limb entrapment.

(e) The use of sinks, equipment, and utensil-washing sinks, or food preparation sinks for the cleaning of garbage and refuse containers, mops or similar wet floor cleaning tools, and for the disposal of mop water or similar liquid waters is prohibited.

(f) Children shall not be present in the area during construction or remodeling and not in the immediate area during cleaning or in such a manner as to create a condition that might result in an accident or cause harm to the health and safety of the children.

(g) The following items shall be secured or inaccessible to children for whom they are not age appropriate:

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(i) Items that may cause strangulation such as blind cords, plastic bags, necklaces, and drawstrings on clothing and string;

(ii) Items that may cause suffocation such as sand, beanbag chairs, pillows, soft bedding, and stuffed animals; and

(iii) Items that may cause choking such as materials smaller than 1 ¼ inch in diameter, items with removable parts smaller than 1 ¼ inch in diameter, Styrofoam objects and latex balloons.

### (6) Water Supply

(a) The water supply shall meet applicable requirements for water quality and testing in accordance with DHEC.

(b) The center shall have hot and cold water under pressure. (Forty PSI recommended) If water is unavailable for four hours, a center must close.

(c) Hot water shall meet current DHEC regulations for Retail Food Establishments: 61-25.

(d) Safe drinking water shall be available to children at all times and there shall be no use of common drinking cups.

(e) If a water fountain is available, it shall be of an angle-jet design, maintained in good repair and kept sanitary. There shall be no possibility of mouth or nose submersion.

(f) Ice used for any purpose shall be made from water from an approved source. The ice shall be handled and stored in a sanitary manner.

### (7) Temperature

(a) Temperature shall be maintained between 68 and 80 degrees Fahrenheit as appropriate to the season while children are present in the center. If temperature cannot be maintained in this range for more than four hours, the center must close.

(b) Caution shall be used with regards to weather and the length of time children are outside when the wind chill factor is below 20 degrees Fahrenheit or the heat index is above 95 degrees Fahrenheit.

### (8) Sanitation

(a) Clean and sanitary conditions shall be maintained indoors and outdoors, including indoor and outdoor recreational equipment and furnishings.

(b) Measures to control insects, rodents, and other vermin shall be taken to prevent harborage, breeding, and infestation of the premises.

(c) All solid wastes shall be disposed of at sufficient frequencies and in such a manner not to create a rodent, insect, or vermin problem.

(d) Trash in diapering areas shall be kept in closed, hands-free operated, plastic lined receptacles in good repair.

(e) Trash in kitchen areas shall be kept in closed, plastic lined receptacles.

(f) Trash in children's restrooms, classrooms, and eating areas shall be kept in plastic lined receptacles.

(g) Trash receptacles outside the building, shall be watertight with firm fitting lids that prevent the penetration of insects and rodents.

(h) Trash disposal and sewage system construction and usage shall be in accordance with local standards and ordinances.

(i) The use of child care room, bathroom, or kitchen sinks for cleaning of trash receptacles or cleaning equipment is prohibited.

(9) Doors

(a) Protective gates shall be of the type that do not block emergency entrances and exits and that prevent finger pinching and head or limb entrapment.

(10) Landings, stairs, handrails, and railings

(a) Children shall not have access to a door that swings open to a descending stairwell or outside steps, unless there is a landing that is at least as wide as the doorway at the top of the stairs.

(b) Each ramp and each interior stairway and outside steps exceeding two steps shall be equipped with a secure handrail at the height appropriate for the sizes of the children at the center.

(c) Stairs shall have a nonskid surface.

(d) Each porch and deck that has over an 18-inch drop shall have a well-secured railing.

(e) Interior stairs that are not enclosed shall have a barrier to prevent falls.

(11) Electrical sources

(a) The center shall be connected with an electrical source.

(b) Electrical outlets and fixtures shall be connected to the electrical source in a manner that meets local electrical codes, as certified by an electrical code inspector. – NFPA 70 and 99 Compliance.

(c) Electrical outlets shall be securely covered with childproof covers or safety plugs when not in use in all areas accessible to children.

(d) No electrical device accessible to children shall be located so that it could be plugged into the outlet while in contact with a water source, such as sinks, tubs, shower areas, or swimming/wading pools, unless ground fault devices are utilized.

(12) Bathrooms

(a) There shall be at least one flush toilet for every 20 children over two years of age. Staff shall be included when determining availability of toilets if there are no staff rest rooms.

(b) If seat adapters are used for toilet training, they shall be cleaned and sanitized after each use.

(c) Toilet training equipment shall be provided to children who are being toilet trained.

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(d) There shall be at least one sink with running water under pressure for every 20 children over two years of age. Sinks shall be located in or near each toilet area. It is recommended that water be a minimum of 60 degrees Fahrenheit.

(e) Toilets and sinks shall be at heights accessible to the children using them or shall be equipped with safe and sturdy platforms or steps.

(f) Privacy shall be provided for toilets used by preschool and school age children.

(g) Floor and wall surfaces in the toilet area shall have smooth, washable surfaces. Carpeting is not permitted in the toilet area.

(h) Toilets, toilet seat adapters, sinks and restrooms shall be cleaned at least daily and shall be in good repair.

(i) Liquid or granular soap and disposable towels shall be provided at each sink.

(j) Children shall not be left unattended in a bathtub or shower.

(k) Easily cleanable receptacles shall be provided for waste material. Toilet rooms used by women shall be provided with at least one covered waste receptacle.

(l) Bathroom facilities shall be completely enclosed.

### B. Outdoor space

(1) The director shall provide at least seventy-five (75) square feet of outdoor play space per child. Where outdoor space is insufficient at the center, the director and/or staff may take the children outdoors in shifts or utilize parks or other outdoor play areas which meet safety requirements and which are easily accessible.

(2) The outdoor space shall be free from hazards and litter.

(3) Outdoor walkways shall be free from debris, leaves, ice, snow, and obstruction.

(4) Children shall be restricted from unsafe areas and conditions such as traffic, parking areas, ditches, and steep slopes by a fence or natural barrier that is at least four feet high.

(5) Outdoor recreational equipment shall meet the standards of the US Consumer Products Safety Commission (CPSC), if applicable. Recalled products listed by the CPSC shall not be accessible to children.

(6) Outdoor recreational equipment shall be made of durable, non-rusting, non-poisonous materials, and shall be sturdy.

(7) Stationary outdoor equipment shall be firmly anchored and shall not be placed on a concrete or asphalt surface.

(8) Swings shall be located to minimize accidents and shall have soft and flexible seats.

(9) Cushioning material such as mats, wood chips or sand shall be used under climbers, slides, swings, and large pieces of equipment. Cushioning material shall extend at least six (6) feet beyond the equipment and swings.

(10) Slides shall have secure guards along both sides of the ladder and placed in a shaded area.

(11) Outdoor metal equipment that is uncoated shall be located in shaded areas or otherwise protected from the sun. Teachers shall check the temperature by touch prior to children playing on it.

(12) Outdoor equipment shall be arranged so that children can be seen at all times.

(13) A properly fitting bicycle helmet that is approved by American National Standards Institute, Snell Memorial Foundation, or American Society for Testing and Materials, shall be worn by each child when riding a bicycle, skateboard, roller blades, or skates. Helmets are optional for use with tricycles.

**C. Furniture, toys, and recreational equipment shall:**

(1) Be clean and free from hazards such as broken or loose parts, rust or peeling paint, pinch or crush points, unstable bases, sharp edges, exposed bolts, and openings that could cause head or limb entrapment;

(2) Meet the standards of the US Consumer Products Safety Commission (CPSC), if applicable. Recalled products listed by the CPSC shall not be accessible to children;

(3) Be developmentally and size appropriate, accommodating the maximum number of children involved in an activity at any one time;

(4) Playpens are not allowed in licensed care.

(5) All arts and crafts and play materials shall be nontoxic;

(6) The height of play equipment shall be developmentally and size appropriate;

(7) Sand in a sand box shall be securely covered when not in use and, if outdoors, constructed to provide for drainage;

(8) Indoor recreational equipment and furnishings shall be cleaned and disinfected when they are soiled or at least once weekly and shall be of safe construction and free of sharp edges and loose or rusty points.

**D. Rest equipment**

(1) Cribs shall meet the requirements of the US Consumer Products Safety Commission (CPSC).

(2) Each infant, toddler, two year old and preschool child shall be assigned an individual, clean, and developmentally appropriate crib, cot, or mat appropriately labeled with the child's name and/or charted and used only by that child.

(3) Cribs, cots, and mats shall be made of easily cleanable material.

(4) Placement of sleeping and napping equipment shall allow ready access to each child by staff.

(5) Individual, clean, appropriate coverings shall be provided.

(6) Cots and mats shall be stored so that the surface on which a child lies does not touch the floor.

**E. Environmental hazards**

(1) Poisons or harmful agents

(a) Poisons or harmful agents shall be kept locked, stored in the original containers, labeled and inaccessible to children.

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- (b) Poisons or harmful agents shall be purchased in childproof containers, if available.
- (c) Play materials, including arts and crafts, shall be non-poisonous.
- (d) Poisonous plants are not permitted.

(e) Pesticides shall be of a type applied by a licensed exterminator in a manner approved by the United States Environmental Protection Agency. Pesticides shall be used in strict compliance with label instructions and should not be used while children are present. Pesticide containers shall be prominently and distinctly marked or labeled for easy identification of contents and stored in a secure site accessible only to authorized staff.

### (2) Water hazards

(a) Swimming pools located at the center or used by the center shall conform to the regulations of DHEC for construction, use, and maintenance.

(b) Swimming pools, stationary wading pools and other water sources such as ditches, streams, ponds, and lakes shall be made inaccessible to children by a secure fence that is at least 4 feet high; exits and entrances shall have self-closing, positive latching gates with locking devices.

(c) Children shall not be permitted in hot tubs, spas, or saunas.

(d) Children shall not be permitted to play in areas where there are swimming pools or other water sources without constant supervision.

(3) Firearms, weapons, and ammunition are not permitted in the center or on the premises without the express permission of the authorities in charge of the premises or property. This does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science.

### (4) Animals: The following requirements apply in regard to animals:

(a) Healthy animals which present no apparent threat to the health and safety of the children shall be permitted, provided they are cleaned, properly housed, fed and cared for and have had required vaccinations, as appropriate. Live animals shall be excluded from areas where food for human consumption is stored, prepared or served.

(b) Animals shall not be permitted if a child in the room or area is allergic to the specific type of animal.

(c) Animal litter and waste shall not be accessible to children.

(d) Reptiles and rodents shall not be accessible to children.

(e) Children and adults shall wash their hands after touching animals.

114-508. Meal Requirements; Food Preparation and Serving; Storage and Protection of Food Supplies, Utensils and Equipment.

#### A. Meal requirements

(1) If food is provided by the facility, the following requirements shall be met:

(a) Daily menus shall be dated and posted in a conspicuous location in public view.



(b) Meals and snacks provided shall be in compliance with the USDA Child Care Food Program Guidelines. Centers that do not provide overnight care shall serve at least one meal and at least one snack that meet USDA Child Care Food Program Guidelines. Centers providing care between the hours of 6:00 p.m. and midnight shall additionally meet USDA Child Care Food Program Guidelines in serving dinner and at least one additional snack. Meal components and serving sizes shall be in accordance with these guidelines.

(c) Only Grade A pasteurized fluid milk and fluid milk products may be given to any child less than 24 months old, except with a written permission from the child's health provider.

(d) Whole milk may not be served to children less than 12 months of age, except with a written permission from the child's health provider.

(e) Reconstituted milk shall not be served to any child, regardless of age.

(2) Food served shall be suited to the child's age and appetite. Second portions shall be available.

(3) Round, firm foods shall not be offered to children younger than four years old. Examples of such foods include: hot dogs, grapes, hard candy, nuts, peanuts, and popcorn. Hot dogs may be served if cut lengthwise and quartered; grapes may be served if cut in halves.

(4) All food in child care centers shall be from a source approved by the health authority and shall be clean, wholesome, unspoiled, free from contamination, properly labeled, and safe for human consumption.

(5) The use of food in hermetically sealed containers that was not prepared in an approved food-processing establishment is prohibited.

(6) The use of home-canned foods is not allowed.

(7) The following requirements shall be met when it is necessary to provide meals through a catering service:

(a) Catered meals shall be obtained from a food service establishment approved by the DHEC.

(b) If adequate cleaning and sanitizing equipment is not available, only disposable eating and drinking utensils shall be used to serve catered meals or food; and

(c) The procedures and equipment used to transport catered meals shall be approved by the DHEC.

(8) Meals and snacks may be provided by the center or the parent. The center shall have a small supply of nutritional food and beverages available in the event a parent neglects to bring the child's food on an unanticipated basis.

(9) Dietary alternatives shall be available for a child who has special health needs or religious beliefs.

(10) Written permission/instructions for dietary modifications signed by the child's health care provider or parent or legal guardian are required.

#### **B. Food preparation**

(1) Adequate hand-washing facilities, separate from food preparation sinks, equipped with hot and cold water under pressure supplied through a mixing faucet, shall be provided in the food preparation area. Hot water shall meet current DHEC regulations for Retail Food Establishments: 61-25. (Facilities shall not be required to

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install an additional hand-washing sink in the food preparation area if, in the opinion of the health authority, the existing hand-washing facilities are adequate.)

(2) Sanitary soap and towels shall be provided.

(3) Utensils, such as forks, knives, tongs, spoons, and scoops shall be provided and used to minimize handling of food in all food preparation areas.

(4) Staff shall thoroughly wash their hands and exposed areas of arms with soap and warm water in an approved hand-washing sink before starting work, during work as often as is necessary to keep them clean, e.g., after smoking, eating, drinking, or using the toilet. Staff shall keep their fingernails clean and trimmed.

(5) The outer clothing of all staff shall be clean. The director shall ensure proper hair restraints are worn to protect from falling hair.

(6) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to an internal temperature of at least 140 degrees Fahrenheit, with the following exceptions:

(a) Hamburger shall be cooked to at least 155 degrees Fahrenheit.

(b) Poultry, poultry stuffing, stuffed meats, and stuffing-containing meat shall be cooked to heat all parts of the food to at least 165 degrees Fahrenheit with no interruption of the cooking process.

(c) Pork and any food containing pork shall be cooked to heat all parts of the food to at least 150 degrees Fahrenheit.

(d) Rare roast beef and rare beefsteak shall be cooked to surface temperature of at least 130 degrees Fahrenheit.

(7) Potentially hazardous food such as meats, cooked rice, and cream-filled pastries shall be prepared (preferably from chilled products) with a minimum of manual contact and on surfaces with utensils that are clean and sanitized prior to use.

(8) Metal, stem-type, numerically-scaled indicating thermometers, accurate to plus or minus three degrees Fahrenheit, shall be provided and used to ensure that proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods are maintained.

(9) Potentially hazardous foods shall be thawed as follows:

(a) In refrigerated units at a temperature not to exceed 45 degrees Fahrenheit;

(b) Under potable running water from the cold water supply with sufficient water velocity to remove loose food particles;

(c) In a microwave oven only when food will be immediately transferred to conventional cooking equipment as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(d) As part of the conventional cooking process.

(10) All raw fruits and vegetables shall be washed thoroughly before being cooked, served, or placed in refrigerators.

**C. Food service**

- (1) No child shall be deprived of a meal or snack if he/she is in attendance at the time the meal or snack is served.
- (2) Easily breakable dinnerware shall not be used.
- (3) Children shall not be forced to eat.
- (4) Food shall not be used as a punishment.
- (5) Children shall not be allowed in the kitchen except during supervised activities.
- (6) Portions of food once served shall not be served again.
- (7) Single-service articles shall be stored in closed cartons or containers to protect them from contamination.
- (8) Use of "common drinking cups" is prohibited.
- (9) Disposable cups, if used, shall be handled and stored properly to prevent contamination.
- (10) Reuse of single service articles is prohibited.
- (11) If potentially hazardous foods that have been cooked and then refrigerated are to be served hot, they shall be reheated rapidly to 165 degrees Fahrenheit or higher throughout before being served or before being placed in a hot food-storage facility. Steam tables, double boilers, warmers, and similar hot food holding facilities are prohibited from use for the rapid reheating of potentially hazardous foods.

**D. Storage**

- (1) All food shall be properly labeled and stored, and shall be protected against contamination.
- (2) The director shall provide refrigeration units and insulated facilities, as needed, to ensure that all potentially hazardous foods are maintained at 45 degrees Fahrenheit or below or 130 degrees Fahrenheit or above, except during necessary periods of preparation.
- (3) Thermometers shall be accurate to plus or minus 3 degrees and conspicuously placed in the warmest area of all cooling and warming units to ensure proper temperatures.
- (4) Containers of food, food preparation equipment and single service articles shall be stored at least 6" above the floor, on clean surfaces, and in such a manner to be protected from splash and other contamination.
- (5) Food not subject to further washing or cooking before serving shall be stored in such a manner to be protected against contamination from food requiring washing or cooking.
- (6) The storage of food or food equipment, utensils, or single-service articles in toilet rooms and under exposed sewer lines is prohibited.
- (7) Custards, cream fillings, or similar products which are prepared by hot or cold processes shall be kept at safe temperatures except during necessary periods of preparation and service.
- (8) All cleaning supplies, detergents, and other potentially poisonous items shall be stored away from food items and shall be inaccessible to children.

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### E. Cleaning, storage, and handling of utensils and equipment

- (1) Tableware shall be washed, rinsed, and sanitized after each use.
- (2) All kitchenware and food-contact surfaces of equipment shall be washed, rinsed, and sanitized.
- (3) The cooking surfaces of cooking devices shall be cleaned as often as necessary and shall be free of encrusted grease deposits and other soil.
- (4) Non-food contact surfaces of all equipment, including tables, counters, and shelves, shall be cleaned at such frequency as is necessary to be free of accumulation of dust, dirt, food particles, and other debris.
- (5) After sanitation, all equipment and utensils shall be air-dried.
- (6) Prior to washing, all equipment and utensils shall be rinsed or scraped, and when necessary, presoaked to remove gross food particles and soil.
- (7) When manual dishwashing is employed, equipment and utensils shall be thoroughly washed in a detergent solution that is kept reasonably clean, be rinsed thoroughly of such solution, sanitized by one of the following methods:
  - (a) Complete immersion for at least 30 seconds in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and at a temperature of at least 75 degrees Fahrenheit;
  - (b) Complete immersion for at least 30 seconds in a clean solution containing at least 12.5 parts per million of available iodine and having a pH no higher than 5.0 and at a temperature of at least 75 degrees Fahrenheit;
  - (c) Complete immersion for at least 30 seconds in a clean solution containing at least 200 parts per million of quaternary ammonium at a temperature of at least 75 degrees Fahrenheit; or
  - (d) Complete immersion in hot water at a temperature of 170 degrees Fahrenheit in a three-compartment sink.
- (8) Other chemical sanitizing agents may be used which have been demonstrated to the satisfaction of the health authority to be effective and non-toxic under use conditions, and for which suitable field tests are available. Such sanitizing agents, in use solution, shall provide the equivalent bactericidal effect for a solution containing at least 50 parts per million of available chlorine at a temperature not less than 75 degrees Fahrenheit.
- (9) A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.
- (10) All dishwashing machines shall be approved by the South Carolina Department of Health and Environmental Control (DHEC) and shall meet applicable installation requirements.
- (11) Food-contact surfaces of cleaned and sanitized equipment and utensils shall be handled in such a manner as to be protected from contamination.
- (12) Cleaned and sanitized utensils shall be stored above the floor in a clean, dry location so that food-contact surfaces are protected from contamination.

(13) Clean spoons, knives, and forks shall be picked up and touched only by their handles. Clean cups, glasses, and bowls shall be handled so that fingers and thumbs do not contact inside surfaces or lip-contact surfaces.

(14) Dish tables or drain boards of adequate size to properly handle soiled utensils prior to washing and for cleaned utensils following rinsing and sanitizing shall be provided.

114-509. Infant and Toddler Care, Care for Mildly Ill Children, and Night Care.

A. Infant and toddler care

(1) Stimulation and nurturing

(a) Children shall not remain in their cribs or play equipment for other than sleeping and specific, short time-limited quiet play.

(b) Infants and toddlers shall be routinely held, talked to, rocked, caressed, carried, nurtured, read to, sung to and played with throughout the day.

(c) There shall be toys and materials that encourage and stimulate children through seeing, feeling, hearing, smelling and tasting.

(2) Programs for infants and toddlers

(a) Staff shall provide appropriate attention to the needs of children.

(b) The daily program for infants and toddlers shall include goals for children, which promote healthy child development and allow for individual choice and exploration.

(c) Information about the child's daily needs and activities shall be shared with parents.

(3) Feeding, eating and drinking

(a) Cups and bottles shall be labeled with the child's name and used only by that child.

(b) Infants shall be fed in accordance with the time schedule, specific food and beverage items and quantities as specified by the parent.

(c) Infants shall be held while being bottle fed until they are able to hold their own bottles. Bottles shall not be propped or given in cribs or on mats.

(d) Microwaving of breastmilk, formulas, or other beverages is prohibited. If used, crock pots, bottle warmers, or other electronic devices must be in an area not accessible to children.

(e) All warmed bottles shall be shaken well and the temperature tested before feeding to a child.

(f) Baby formula, juice, and food served in a bottle shall be prepared, ready to feed, identified, and packaged for single use for the appropriate user. Any excess formula, juice, or food shall be discarded after each feeding. Formula, juice and food requiring refrigeration shall be maintained at 45 degrees Fahrenheit or below.

(g) Infants and toddlers shall not sleep with bottles in their mouths.

(h) Toddlers shall be offered water routinely throughout the day.

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(i) Breast milk and formula shall be dated and labeled with the child's name and refrigerated until ready to use.

(j) Food for infants shall be cut in pieces one-quarter inch or less.

(k) Food for toddlers shall be cut in pieces one-half inch or less.

### (4) Feeding chairs

(a) Feeding chairs shall have a stable base.

(b) Feeding chairs shall have a T-shaped safety strap that prevents the child from slipping or climbing out of the chair. The safety strap shall be used at all times the child is in the chair.

(c) Feeding chair trays shall be in good repair and made of an easily cleanable surface and shall not have chips or cracks.

(d) Feeding chairs shall be used only for eating or a specific, short time-limited tabletop play activity.

(e) Seat heights of feeding chairs shall be appropriate to the age and development of the child. Feeding chairs shall be in good repair and children shall be constantly supervised.

### (5) Sleeping

(a) Infants shall be placed on their backs to sleep.

(b) Crib mobiles shall not be permitted for infants or toddlers who can sit.

(c) Cribs shall be spaced so that there is at least three feet of space on two sides of the crib. Cribs shall not be placed next to each other so that one child may reach into the other child's crib.

(d) Stacked cribs are not permitted.

### (6) Equipment and materials

(a) The infant and toddler room shall have chairs for staff persons to sit while holding and feeding children.

(b) Indoor space shall be protected from general walkways where crawling children may be on the floor.

(c) Mobile walkers are not permitted.

## B. Care for mildly ill children

### (1) Parent notification and instructions

(a) If a child becomes ill while in care, the center shall notify the parent or responsible party immediately.

(b) If a child may have been exposed to a serious communicable disease that is spread through casual contact, the center shall notify the parents of all potentially exposed children about the nature of the illness and the potential exposure to the illness, and recommend consultation with the child's physician.

(c) If a center chooses to provide care to a mildly ill child, the center shall receive instructions from the parent for any special care needs of the child.

(2) Policies and procedures

(a) If a center chooses to provide care to a mildly ill child, the center shall have written policies and procedures specifying inclusion and exclusion from the group, communication with parents, recording of illness and care provided, specific types of illnesses and symptoms which prohibit care from being provided, special staff training required and emergency health procedures.

(b) Children shall be excluded when they exhibit the conditions listed in the South Carolina Department of Health and Environmental Control Exclusion Policy, State Law 1976, Code Section 44-1-110, 44-1-140, and 44-29-10.

(c) If a child is in a rest area due to illness, the child shall be directly supervised at all times.

(d) A hand-washing sink shall be in close proximity to the area designated for mildly ill children.

C. Night care

(1) Requirements for staffing ratios:

(a) Staff counted in the staffing ratios shall be awake, alert and attentive to the children at all times.

(b) The supervision and ratio requirements for sleeping hours are the same as specified for napping in 114-504.C.

(2) An unannounced emergency drill shall be held during sleeping hours at least every 60 days.

(3) Sleeping equipment

(a) Each child shall have a bed with a solid foundation, a fire retardant mattress, a pillow, and bedding appropriate for the temperature of the center.

(b) Cots and portable beds are not permitted.

(4) Bedtime

(a) Children shall be provided the opportunity to read or be read to before bedtime.

(b) There shall be books, games, and other quiet time activities for the child prior to bedtime.

(c) Special bedtime routines as specified by the parent shall be followed to the extent feasible.

(5) Bathing

(a) If children bathe at the center, there shall be one bathtub or shower with a slip resistant surface for every ten children.

(b) Each child shall have his or her own clean towel and washcloth.

(6) Night clothes

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(a) The center shall make arrangements with the parent to provide clean, appropriate night clothes.

### **Fiscal Impact Statement:**

The proposed regulations will have no substantial fiscal or economic impact on the State 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 Rationale:**

These amendments are proposed to enhance and improve the current licensing regulations for private and public child care centers based on the advice and recommendation of the State Advisory Committee on the Regulation of Child Care Facilities. The Committee consulted experts in the field of child care licensing, inclusion of children with special needs, and national best practice standards adopted by other states.